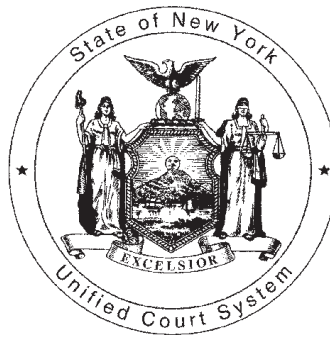

STATE OF NEW YORK



TWENTY-FIFTH ANNUAL REPORT OF THE CHIEF ADMINISTRATOR OF THE COURTS FOR CALENDAR YEAR 2002

STATE OF NEW YORK

**Report of
The Chief Administrator of the Courts**

**For the Calendar Year
January 1, 2002 - December 31, 2002**

COURT OF APPEALS

Judith S. Kaye, CHIEF JUDGE

George Bundy Smith

Richard C. Wesley

Howard A. Levine

Albert M. Rosenblatt

Carmen Beauchamp Ciparick

Victoria A. Graffeo

CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Jonathan Lippman

ADMINISTRATIVE BOARD OF THE COURTS

Judith S. Kaye, CHAIR

Milton L. Williams

Anthony V. Cardona

A. Gail Prudenti

Eugene F. Pigott, Jr.

UNIFIED COURT SYSTEM 2002

JONATHAN LIPPMAN

Chief Administrative Judge

JOSEPH J. TRAFICANTI, JR.

Deputy Chief Administrative Judge
Courts Outside New York City

ANN T. PFAU

Deputy Chief Administrative Judge
for Management Support

JOAN B. CAREY

Deputy Chief Administrative Judge
New York City Courts

JUANITA BING NEWTON

Deputy Chief Administrative Judge
for Justice Initiatives

ADMINISTRATIVE JUDGES

JACQUELINE W. SILBERMANN

Administrative Judge for
Statewide Matrimonial Matters

JOSEPH LAURIA

Administrative Judge
New York City Family Court

FERN FISHER

Administrative Judge
New York City Civil Court

JUDY HARRIS KLUGER

Administrative Judge
New York City Criminal Court

JACQUELINE W. SILBERMANN

Administrative Judge
First Judicial District
Supreme Court, Civil Branch

MICKI SCHERER

Administrative Judge
First Judicial District
Supreme Court, Criminal Branch

ANN T. PFAU

Administrative Judge
Second Judicial District
Supreme Court

STEVEN W. FISHER

Administrative Judge
Eleventh Judicial District
Supreme Court

GERALD ESPOSITO

Administrative Judge
Twelfth Judicial District
Supreme Court, Civil Term

JOHN COLLINS

Administrative Judge
Twelfth Judicial District
Supreme Court, Criminal Term

SUSAN PHILLIPS READ

Presiding Judge
Court of Claims

THOMAS W. KEEGAN

Administrative Judge
Third Judicial District

JAN H. PLUMADORE

Administrative Judge
Fourth Judicial District

JAMES TORMEY

Administrative Judge
Fifth Judicial District

JUDITH O'SHEA

Administrative Judge
Sixth Judicial District

THOMAS VAN STRYDONCK

Administrative Judge
Seventh Judicial District

VINCENT E. DOYLE

Administrative Judge
Eighth Judicial District

FRANCIS A. NICOLAI

Administrative Judge
Ninth Judicial District

EDWARD G. McCABE

Administrative Judge
Nassau County

ALAN OSHRIN

Administrative Judge
Suffolk County

...

MICHAEL COLODNER

Counsel

PREFACE

I am pleased to present the 25th annual report of the Chief Administrator of the New York State Unified Court System. This report, which is submitted to the Governor and the Legislature in accordance with Section 212 of the Judiciary Law, reflects the activities of the courts and the state of the court system during the proceeding year.

Included in the report are an outline of the structure of the courts, a summary of our legislative agenda, significant statistical data, and highlights of the court system's initiatives for 2002. Family Court data, issued pursuant to sections 213 and 385 of the Family Court Act, are provided separately as Volume II of this report.

This year, we continued our efforts to make the courts more accessible. Through the Center for Court Innovation we are implementing innovative approaches to delivering court services. The New York State Judicial Institute, created through a unique partnership with Pace University School of Law, has started offering judicial educational seminars and soon will be located in its new home, being constructed at Pace Law School in White Plains. Two major ongoing construction projects in New York City — in Kings and Bronx Counties— will soon provide over 120 sorely-needed new courtrooms. Finally, we are redesigning the court system's web site to make court information easier to find and understand. As part of that process, our Internet address has been simplified to: www.nycourts.gov.

As always, I am proud of the accomplishments of the Judges and nonjudicial employees and want to thank them for their dedication and commitment.

Finally, I also want to gratefully acknowledge the assistance and cooperation extended to the Judiciary this year by the Governor and his staff and members of the Legislature.



Faye Ellman

A handwritten signature in blue ink that reads "Jonathan L. Lipman". The signature is fluid and cursive, with the first name "Jonathan" and last name "Lipman" clearly legible.

Please Do Not Destroy or Discard This Report.

When this report is of no further value to the holder, please return it to the Office of Court Administration, 25 Beaver Street, New York, N.Y. 10004, so that copies will be available for replacement in our sets and for distribution to those who may request them in the future.

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CHAPTER 1

Court Structure and Statistics

The Judiciary, with the Executive and the Legislature, is one of the three co-equal branches of New York State government. The responsibility and authority for supervising the courts is vested in the Chief Judge of the Court of Appeals, who also serves as the Chief Judge of the State.

The powers and structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI provides for a unified court system for the State, specifies the organization and the jurisdiction of the courts, establishes the methods of selection and removal of judges and justices, and provides for administrative supervision of the courts. The

State is divided into four judicial departments.

In New York State, the courts of original jurisdiction, or *trial courts*, hear a case in the first instance, and the *appellate courts* hear appeals from the decisions of those tribunals. The appellate structure of these courts is described herein and is shown in Figures 1a and 1b. This chapter identifies the different courts in the State, defines their jurisdiction, and reflects their caseload activity for the year 2002.

In all, there are 1,207 judges and approximately 15,000 nonjudicial personnel throughout the system. Table 1 reflects the number of judges authorized to sit in each of the courts located in the State.



New York State Court of Appeals in 2002:
 Albert M. Rosenblatt,
 Carmen Beauchamp
 Ciparick, George
 Bundy Smith,
 Chief Judge
 Judith S. Kaye,
 Howard A. Levine,
 Richard C. Wesley,
 Victoria A. Graffeo

Figure 1a
NEW YORK STATE JUDICIAL SYSTEM
Criminal Appeals Structure

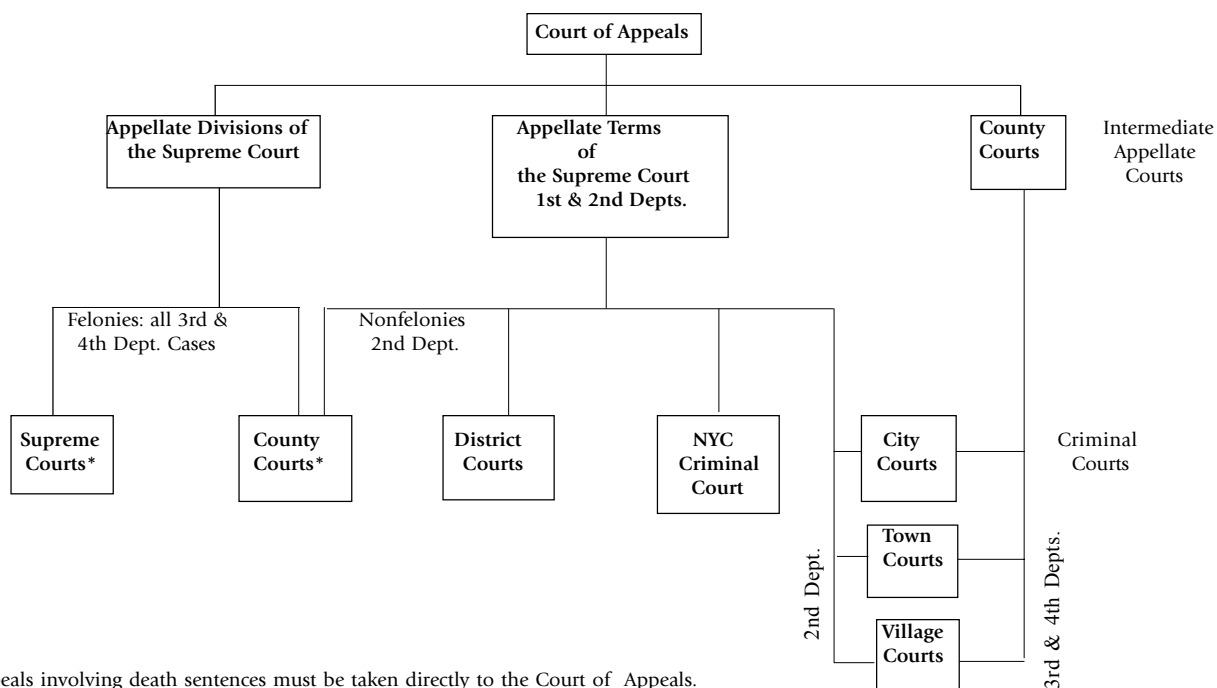


Figure 1b
NEW YORK STATE JUDICIAL SYSTEM
Civil Appeals Structure

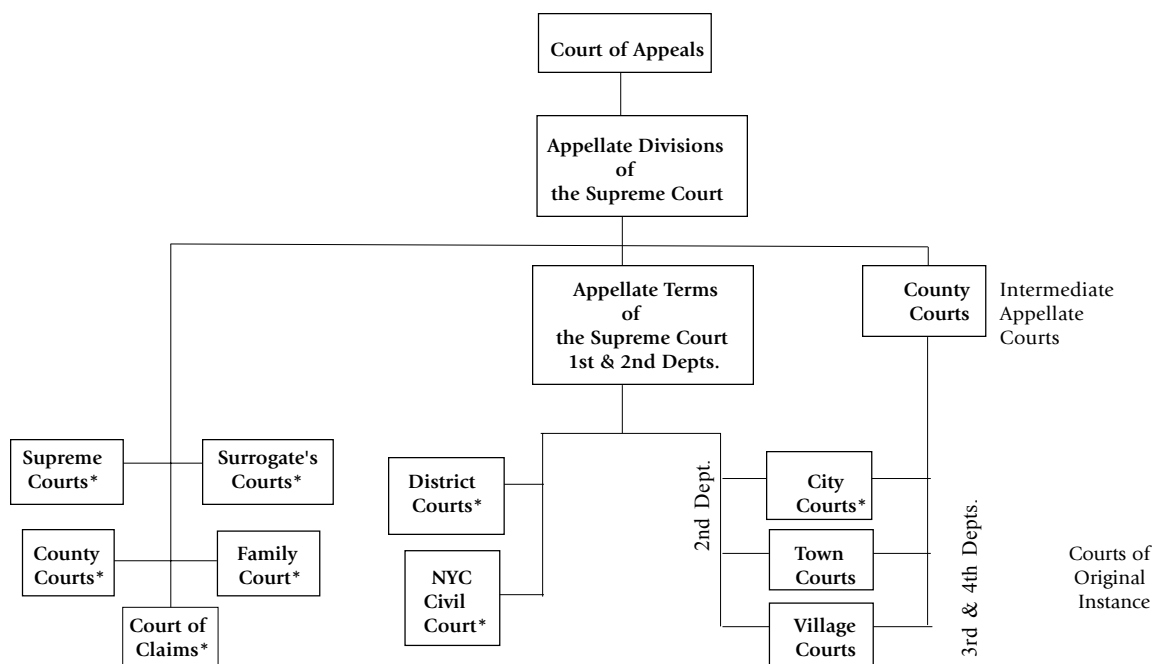


Table 1
NEW YORK STATE JUDICIAL SYSTEM
Authorized Number of Judges
December 31, 2002

<i>Number of Judges</i>	<i>Court</i>
7	..... Court of Appeals
57 ^a	..... Supreme Court, Appellate Divisions
277 ^b	..... Supreme Court, Trial Parts
75	..... Supreme Court, Certificated Retired Justices
22	..... Court of Claims
50	..... Court of Claims (15 judges appointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program, as amended by Chapters 500, 501, Laws of 1982; 23 appointed pursuant to Chapter 906, Laws of 1986; 8 appointed pursuant to Chapter 209, Laws of 1990; and 4 appointed pursuant to Chapter 731, Laws of 1996)
30	..... Surrogate's Courts (including 6 Surrogates in the City of New York)
71	..... County Courts* (County Judges outside the City of New York in counties that have separate Surrogate's Court and Family Court Judges)
13	..... County Courts* (County Judges who are also Surrogate's Court Judges)
6	..... County Courts* (County Judges who are also Family Court Judges)
38	..... County Courts* (County Judges who are also Surrogate's and Family Court Judges)
126	..... Family Courts (including 47 Family Court Judges in the City of New York)
107	..... Criminal Court of the City of New York
120 ^c	..... Civil Court of the City of New York
50	..... District Courts (in Nassau and Suffolk Counties)
158	..... City Courts in the 61 cities outside New York City including Acting and Part-time Judges
1,207	Total
[2,300	Town and Village Justice Courts]

* In smaller counties, judges may sit in two or three of the county-level courts simultaneously (County, Surrogate's or Family Courts).

a In addition to the 20 Supreme Court Justices permanently authorized, 25 Justices and 10 Certificated Retired Justices are temporarily designated to the Appellate Division.

b Judiciary Law §140-a authorizes 323 elected Supreme Court justices in the twelve judicial districts. This number includes the 24 permanently authorized justices who are assigned to the Appellate Division, as well as all non-certificated justices who are temporarily designated to the Appellate Division. This number also includes all justices designated to an Appellate Term. This number does not include judges of other courts, including the Civil and Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year. It also does not include any certificated justices.

c Does not include the additional 11 Civil Court Judgeships authorized by the 1982 Session Laws, chapter 500, but still not filled.

APPELLATE COURTS

The *appellate courts* are the Court of Appeals, the Appellate Divisions, the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts in the Third and Fourth Judicial Departments.

Court of Appeals Structure

The *Court of Appeals* is the highest court in the State and is located in Albany, the capital. The Court consists of the Chief Judge and six Associate Judges. These judges are appointed by the Governor, with the advice and consent of the Senate, for 14-year terms, from among persons found to be well-qualified by the State Commission on Judicial Nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision. In addition to hearing cases, the Court is responsible for establishing rules governing the admission of attorneys to the Bar.

The Court of Appeals hears both civil and criminal appeals. It also presides over appeals from determinations by the State Commission on Judicial Conduct, which is responsible for reviewing allegations of misconduct brought against judges.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the review of questions of law, except in a criminal

case in which the sentence is death, or a case in which the intermediate appellate-level court, the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts, and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from a court of original jurisdiction to the Court of Appeals, from a final judgment or order in an action or proceeding in which the only question is the constitutionality of a State or federal statute. As to other matters, the Constitution provides for an appeal as a matter of right, or upon the leave or permission of the Appellate Division or the Court of Appeals, depending upon the issue.

Decisions of the Court of Appeals are final (cannot be appealed further), except that the United States Supreme Court may be asked to review cases involving questions of federal law or the United States Constitution.

Caseload Activity

During 2002, 165 records on appeal were filed and the Court decided 176 appeals and related matters (see Table 2). In addition, 1,305 motions and 2,724 criminal leave applications were decided.

The Court of Appeals maintains a current docket. During 2002, the average length of time from the filing of a notice of appeal, or order granting leave to appeal, to the release to the public of a decision was 229 days. The caseload activity of the Court is reported in Table 2.

Table 2
CASELOAD ACTIVITY IN THE COURT OF APPEALS - 2002

Applications Decided [CPL 460.20(3(b))]	2,724
Records on Appeal Filed	165
Oral Arguments (Includes Submissions)	162
Appeals Decided	176
Motions Decided	1,305
Judicial Conduct Determinations Reviewed	36

DISPOSITIONS OF APPEALS DECIDED IN THE COURT OF APPEALS
by Basis of Jurisdiction

BASIS OF JURISDICTION	AFFIRMED	REVERSED	MODIFIED	DISMISSED	OTHER*	TOTAL
All Cases:						
Reversal, Modification, Dissent in Appellate Division	10	6	2	-	-	18
Permission of Court of Appeals or Judge thereof	61	38	8	2	-	109
Permission of Appellate Division or Justice thereof	17	8	-	1	-	26
Constitutional Question	2	3	-	-	-	5
Stipulation for Judgment Absolute	-	-	-	-	-	-
Other	1	1	2	-	14	18
Total	91	56	12	3	14	176
Civil Cases:						
Reversal, Modification, Dissent in Appellate Division	10	6	2	-	-	18
Permission of Court of Appeals or Judge thereof	27	24	7	2	-	60
Permission of Appellate Division or Justice thereof	5	4	-	-	-	9
Constitutional Question	2	3	-	-	-	5
Stipulation for Judgment Absolute	-	-	-	-	-	-
Other	1	1	1	-	14	17
Total	45	38	10	2	14	109
Criminal Cases:						
Permission of Court of Appeals or Judge thereof	34	14	1	-	-	49
Permission of Appellate Division or Justice thereof	12	4	-	1	-	17
Other	-	-	1	-	-	1
Total	46	18	2	1	-	67

*Includes anomalies which did not result in an affirmance, reversal, modification or dismissal (e.g., judicial suspensions, acceptance of a case for review pursuant to Court Rule 500.17)

Appellate Division Structure

The *Appellate Divisions of the Supreme Court* are established in each of the State's four judicial departments (see the map at the beginning of this report). The primary responsibilities of the Courts are:

- Resolving appeals from judgments or orders of the superior courts of original jurisdiction in civil and criminal cases, and reviewing civil appeals taken from the Appellate Terms and the County Courts acting as appellate courts.

- Establishing rules governing attorney conduct and conducting proceedings to admit, suspend, or disbar attorneys.

Each Appellate Division has jurisdiction over appeals from final orders and judgments,

and from some intermediate orders rendered in county-level courts, and has original jurisdiction over selected proceedings.

As prescribed by Article VI, Section 4 of the Constitution, the Governor designates the Presiding and Associate Justices of each Appellate Division. The Presiding Justice serves for the remainder of the length of his or her term, while Associate Justices are designated for five-year terms, or for the remainder of their terms of office, whichever period is shorter.

Caseload Activity

During 2002, there were a total of 10,019 records on appeal filed in the four Appellate Divisions, while 19,109 appeals reached disposition (see Table 3).

Table 3
CASELOAD ACTIVITY IN THE APPELLATE DIVISION - 2002

	FIRST DEPT			SECOND DEPT			THIRD DEPT			FOURTH DEPT			TOTAL
	Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal	Total	
Records on Appeal Filed	1,729	999	2,728	3,180	818	3,998	1,368	356	1,724	999	570	1,569	10,019
Disposed of before Argument or Submission (e.g., dismissed, withdrawn, settled)	180	278	458	6,601	1,328	7,929	22	6	28	16	4	20	8,435
Disposed of after Argument or Submission:													
Affirmed	1,173	1,056	2,229	1,635	819	2,454	930	266	1,196	516	483	999	6,878
Reversed	292	32	324	748	61	809	139	18	157	142	25	167	1,457
Modified	241	43	284	293	48	341	132	27	159	163	45	208	992
Dismissed	184	18	202	430	8	438	74	2	76	187	7	194	910
Other	113	7	120	115	182	297	7	-	7	5	8	13	437
Total Dispositions	2,183	1,434	3,617	9,822	2,446	12,268	1,304	319	1,623	1,029	572	1,601	19,109
*Oral Arguments			1,182			2,240			714			883	5,019
*Motions Decided			6,066			14,315			5,226			4,296	29,903
*Admissions to the Bar			3,138			2,478			2,248			324	8,188
*Atty. Disciplinary Proceedings Decided			61			142			59			49	311

*Not broken down by civil or criminal.

Appellate Terms

Structure

Appellate Terms have been established in the First and Second Departments. They exercise jurisdiction over civil and criminal appeals taken from various local courts and, in the Second Department, over non-felony appeals from County Courts.

Section 8 of Article VI of the Constitution provides for the designation of the Justices of Appellate Terms from among the Justices of the Supreme Court by the Chief Administrator of the Courts, with the approval of the Presiding Justice of the appropriate Appellate Division.

Caseload Activity

During the year, 2,089 records on appeal were filed in the Appellate Terms in the First and Second Departments, while 1,928 appeals reached disposition (see Table 4).

COURT OF CLAIMS

Structure

The *Court of Claims* is a special Statewide trial court that has jurisdiction over claims for money damages against the State of New York. Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, to nine-year terms.

Caseload Activity

During 2002, 1,826 claims were filed and 2,000 cases were decided by the Court.

Table 4
CASELOAD ACTIVITY IN THE APPELLATE TERMS - 2002

	FIRST DEPT			SECOND DEPT			TOTAL
	Civil	Criminal	Total	Civil	Criminal	Total	
Records on Appeal Filed	381	80	461	1,170	458	1,628	2,089
Disposed of before Argument or Submission (e.g. dismissed, withdrawn, settled)	27	17	44	472	300	772	816
Disposed of after Argument or Submission:							
Affirmed	180	42	222	328	60	388	610
Reversed	79	13	92	169	44	213	305
Modified	48	3	51	86	13	99	150
Dismissed	12	1	13	17	4	21	34
Other	5	-	5	7	1	8	13
Total Dispositions	351	76	427	1,079	422	1,501	1,928
*Oral Arguments			307			331	638
*Motions Decided			1,771			3,284	5,055

*Not broken down by civil or criminal.

TRIAL COURTS

Caseload Overview

The trial courts of superior jurisdiction are the Supreme Courts, the Court of Claims, the Family Courts, the Surrogate's Courts and, outside New York City, the County Courts. In New York City, the Supreme Court exercises both civil and criminal jurisdiction. Outside New York City, Supreme Court exercises civil jurisdiction, while County Court generally handles criminal matters.

The Chief Administrative Judge has established *Standards and Goals* to provide performance measures for the courts reflecting the time elapsed from case filing to disposition. Standards and Goals have been established for felony cases in Supreme and County Courts, civil cases in the Supreme Courts, and proceedings in the Family Courts. The Standards and Goals performance for each of these courts during 2002 is reported later in this chapter.

In 2002, there were 4,243,813 new cases filed in the trial courts¹ of the UCS². This is a 7% increase from 1998, when 3,949,721 cases were filed (see Table 5). The largest contributing factor to this increase was civil court filings, which rose 21%, from 1,289,625 to 1,555,145.

The number of filings in 2002 excluding parking tickets was 3,991,687, 39% of which were in criminal courts, 39% in civil courts, 18% in family courts, and 4% in surrogate's courts.

There were 3,794,909 total dispositions during the year, 3,593,052 excluding parking tickets. Of these non-parking dispositions, 40% were in criminal courts, 36% in civil courts, 20% in family courts, and 4% in surrogate's courts.

Table 6 contains a breakdown of filings and dispositions during the year in the trial courts by type of court and type of filing.

¹ Does not include locally-funded Town and Village Courts which had a total of 2,291,224 filings for the year.

² Most of the data in this chapter are from the Caseload Activity Reporting System of the UCS and are current as of June 24, 2003. Courts report data to the Office of Court Administration pursuant to the Rules of the Chief Administrative Judge of the Courts (22 NYCRR §115).

Table 5
FILINGS IN THE COURT SYSTEM TRIAL COURTS - FIVE-YEAR COMPARISON

COURT	1998	1999	2000	2001	2002
CRIMINAL					
Supreme and County Courts Criminal	63,329	55,425	53,932	52,500	53,274
Criminal Court of the City of NY:					
Arrest Cases	394,428	363,080	384,668	338,442	324,679
Summonses ^a	488,651	467,591	604,406	530,823	473,748
City & District Courts outside NYC:					
Arrest Cases	302,754	286,583	284,519	283,482	289,982
Uniform Traffic Tickets ^a	312,735	316,138	367,830	362,143	423,613
Parking Tickets ^a	276,325	271,903	248,520	238,107	252,126
Criminal Total	1,838,222	1,760,720	1,943,875	1,805,497	1,817,422
CIVIL					
Supreme Courts Civil ^b	385,827	399,980	412,172	407,097	422,022
Civil Court of the City of NY ^c	592,323	585,771	593,048	629,013	770,677
City & District Courts outside NYC ^c	240,917	235,335	237,501	249,067	283,424
County Courts, Civil ^b	18,131	22,191	28,584	26,565	25,978
Court of Claims	2,143	2,297	2,092	1,910	1,826
Small Claims Assessment Review Program	50,284	53,276	50,523	49,257	51,218
Civil Total	1,289,625	1,298,850	1,323,920	1,362,909	1,555,145
FAMILY	654,602	689,749	692,367	683,390	712,726
SURROGATE'S	167,272	163,470	164,863	163,166	158,520
Total	3,949,721	3,912,789	4,125,025	4,014,962	4,243,813

^a Includes both answered and unanswered cases

^b Includes new cases, ex-parte applications and uncontested matrimonial cases.

^c Includes civil, landlord/tenant, small claims and commercial claims.

Table 6
FILINGS & DISPOSITIONS IN THE TRIAL COURTS - 2002

COURT	FILINGS	DISPOSITIONS
<i>CRIMINAL</i>		
Supreme and County Courts	53,274	56,127
Criminal Court of the City of New York:		
Arrest Cases	324,679	325,193
Summons Cases	473,748	339,792
City & District Courts outside New York City:		
Arrest Cases	289,982	281,461
Uniform Traffic Tickets	423,613	464,145
Parking Tickets	252,126	201,857
Criminal Total	1,817,422	1,668,575
<i>CIVIL</i>		
Supreme Courts:		
New Cases	189,921	199,116
Ex-Parte Applications	179,468	179,468
Uncontested Matrimonial Cases	52,633	53,552
Civil Court of the City of New York:		
Civil Actions	339,564	150,114 ^a
Landlord/Tenant Actions and Special Proceedings	385,593	304,546
Small Claims	35,713	36,830
Commercial Claims	9,807	10,267
City & District Courts outside New York City:		
Civil Actions	153,013	116,676
Landlord/Tenant Actions and Special Proceedings	80,682	77,527
Small Claims	37,202	38,171
Commercial Claims	12,527	11,943
County Courts	25,978	26,124
Court of Claims	1,826	2,000
Arbitration Program	18,622 ^b	17,397
Small Claims Assessment Review Program	51,218	66,656
Civil Total	1,555,145	1,290,387
<i>FAMILY</i>	712,726	708,131
<i>SURROGATE'S</i>	158,520	127,816 ^c
Total	4,243,813	3,794,909

^aDoes not include dispositions in the Arbitration Program.

^bShown here for reference only and not included in totals. Included as intake in the Civil Courts listed above.

^cSurrogate's Court dispositions include orders and decrees signed.

COURTS OF SUPERIOR JURISDICTION

Supreme Court Structure

The *Supreme Court* has unlimited, original jurisdiction, but generally hears cases outside the jurisdiction of other courts, such as:

- Civil matters beyond the monetary limits of the lower courts' jurisdiction
- Divorce, separation, and annulment proceedings
- Equity suits, such as mortgage foreclosures and injunctions
- Criminal prosecutions of felonies

Supreme Court justices are elected by judicial district to 14-year terms.

Caseload Activity

Civil Cases

During 2002, there were 422,022 total civil filings in the Supreme Courts in New York State. This number includes 189,921 new cases also known as requests for judicial intervention (RJI's); 179,468 *ex parte* applications; and 52,633 uncontested matrimonial cases. A total of 432,136 matters reached disposition in 2002, including 199,116 requests for judicial intervention; 179,468 *ex parte* applications; and 53,552 uncontested matrimonial cases (see Table 6). Table 7 lists the number of RJI's and trial notes of issue filed and disposed of in each county of the State. In addition, Supreme Court hears appeals from administrative proceedings brought under the Small Claims Assessment Review Program ("SCAR"). These proceedings are commenced by owners of one, two-, or three-family, owner-occupied residences to challenge their real property tax assessments. In 2002, 51,218 SCAR petitions were filed in Supreme Court and there were dispositions in 66,656 cases. Table 8 reflects filings and dispositions for each judicial district.

Civil actions are commenced in the Supreme Court with the filing of a Request for Judicial Intervention. Figure 2 shows a

breakdown of these filings by type of case: motor vehicle - 24%, medical malpractice - 2%, other tort - 17%, tax certiorari - 8%, contract - 9%, contested matrimonial - 9% and other - 31%. Two-thirds of the cases are disposed of before the trial note of issue is filed—either by settlement (16%) or on some other basis, *e.g.*, dismissal, default, or consolidation (50%). The remaining third of the cases are disposed of after the note of issue is filed: settlements - 22%, verdict or decision - 4%, or other - 8% (see Figure 3).

For purposes of Standards and Goals compliance, there are three standards which apply to all civil cases and measure the length of time from filing an action to disposition. The first, or "pre-note" standard, measures the time from filing the Request for Judicial Intervention (the point at which the parties first seek some form of judicial relief), to filing of the trial note of issue (indicating readiness for trial). The second, or "note" standard, measures the time from filing the trial note of issue to disposition. The third, or "overall" standard, covers the entire period from filing of the RJI to disposition.

Expedited cases must meet the first standard within 8 months, the second within 15 months and the third within 23 months. Standard cases (which include most tort and contract matters) must meet the first standard within 12 months, the second within 15 months, and the third within 27 months. Complex cases (*e.g.*, medical malpractice cases) must meet the first standard within 15 months, the second within an additional 15 months, and the third within 30 months. The only exceptions to these rules are for matrimonial cases, which must meet the first standard within six months, the second within an additional six months, and the third within a total of 12 months; and tax certiorari cases, which must meet the first standard within 48 months, the second within an additional 15 months, and the third within 63 months.

Criminal Cases

Criminal felony cases are heard in the Supreme Court in New York City and predominantly in the County Courts outside of

Table 7 SUPREME COURT CIVIL: Filings & Dispositions - 2002

Location	FILINGS		DISPOSITIONS					
	New Case Filings	Note Filings	Total Dispositions	Pre-Note Settlements	Other Pre-Note Dispositions	Post Note Settlements	Jury Verdicts/ Decisions	Other Note Dispositions
Total State	189,921	69,481	199,116	32,732	98,736	44,202	7,357	16,089
NYC	93,959	38,707	94,018	11,338	46,305	24,328	4,253	7,794
New York	24,996	8,231	25,530	5,122	13,256	4,898	892	1,362
Bronx	15,025	6,501	14,302	994	7,681	4,056	452	1,119
Kings	28,799	12,453	27,377	2,871	12,220	8,529	1,527	2,230
Queens	21,797	9,899	23,279	1,887	11,415	6,066	1,104	2,807
Richmond	3,342	1,623	3,530	464	1,733	779	278	276
Outside NYC	95,962	30,774	105,098	21,394	52,431	19,874	3,104	8,295
Albany	3,510	493	3,520	242	2,615	354	36	273
Allegany	243	38	232	76	115	30	5	6
Broome	892	259	1,044	98	723	87	26	110
Cattaraugus	468	131	504	346	19	122	6	11
Catycuga	670	85	732	29	606	62	1	34
Chautauqua	916	289	951	73	561	81	7	229
Chemung	436	109	407	21	286	15	10	75
Chenango	169	92	171	19	82	38	11	21
Clinton	373	121	387	33	245	33	9	67
Columbia	426	107	449	31	302	44	3	69
Cortland	115	51	121	3	58	16	2	42
Delaware	181	55	153	5	39	22	4	83
Dutchess	2,617	847	2,828	1,725	367	639	45	52
Erie	7,458	1,387	7,731	2,090	4,135	1,058	157	291
Essex	198	44	153	16	92	22	6	17
Franklin	285	68	238	8	190	13	2	25
Fulton	306	139	286	40	103	55	11	77
Genesee	218	101	276	77	111	51	5	32
Greene	300	115	381	53	229	53	10	36
Hamilton	0	0	0	0	0	0	0	0
Herkimer	364	131	358	48	159	49	11	91
Jefferson	388	197	468	24	236	169	9	30
Lewis	170	37	185	9	116	14	35	11
Livingston	491	75	495	42	431	8	0	14
Madison	198	115	246	38	101	39	3	65
Monroe	5,629	1,291	6,445	557	4,678	861	52	297
Montgomery	305	82	292	58	164	36	6	28
Nassau	19,570	7,749	22,432	6,148	6,975	6,758	785	1,766
Niagara	1,852	254	1,572	416	967	135	13	41
Oneida	3,609	695	3,622	256	2,683	265	308	110
Onondaga	2,758	927	3,233	159	1,920	402	110	642
Ontario	414	195	706	67	475	112	13	39
Orange	2,950	1,078	3,916	525	2,187	654	131	419
Orleans	235	11	255	81	158	10	0	6
Oswego	807	332	953	42	593	78	193	47
Otsego	260	93	258	18	171	33	8	28
Putnam	636	277	539	127	196	133	19	64
Rensselaer	1,026	216	1,176	179	754	157	20	66
Rockland	2,990	1,028	3,081	191	1,868	791	98	133
St. Lawrence	411	183	489	99	216	47	1	126
Saratoga	1,503	339	1,522	308	887	208	35	84
Schenectady	1,164	289	1,190	179	747	147	25	92
Schoharie	169	59	135	17	60	34	4	20
Schuyler	60	19	37	2	27	7	0	1
Seneca	183	62	192	11	131	6	0	44
Steuben	371	153	398	69	214	39	0	76
Suffolk	13,612	5,225	14,961	5,840	4,969	2,625	327	1,200
Sullivan	691	157	957	140	689	81	9	38
Tioga	152	46	144	14	71	39	9	11
Tompkins	282	111	310	14	174	19	17	86
Ulster	1,343	522	1,572	318	828	306	29	91
Warren	432	155	429	85	201	71	9	63
Washington	319	100	377	76	202	48	6	45
Wayne	585	115	829	28	648	35	2	116
Westchester	9,759	3,811	10,246	189	6,266	2,644	458	689
Wyoming	390	67	413	17	353	12	3	28
Yates	103	47	101	18	38	7	0	38

Figure 2
SUPREME CIVIL NEW CASE FILINGS: by Case Type - 2002

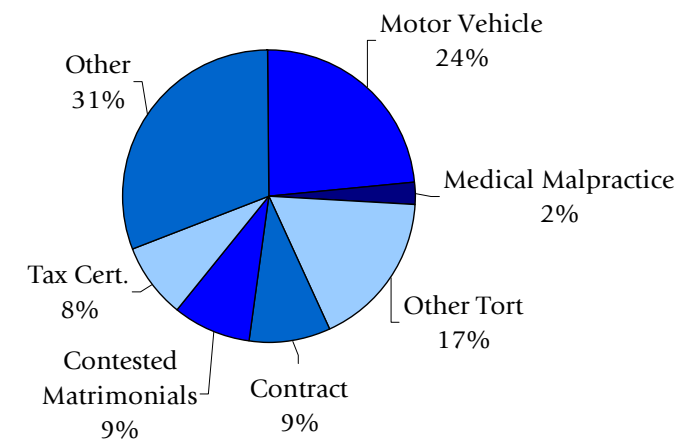


Figure 3
SUPREME CIVIL DISPOSITIONS: by Type of Disposition - 2002

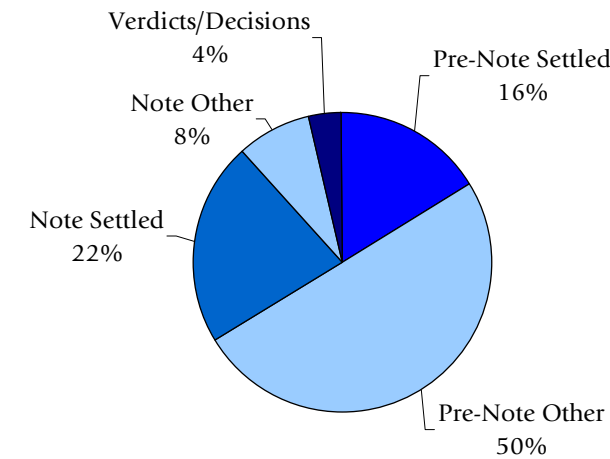


Table 8
SMALL CLAIMS ASSESSMENT REVIEW PROGRAM FILINGS & DISPOSITIONS
by Judicial District - 2002

	FILINGS	DISPOSITIONS	PENDING
Total State	51,218	66,656	17,485
New York City	36	363	40
1 st	2	0	2
2 nd	25	127	25
11 th	7	233	11
12 th	2	3	2
Outside New York City	51,182	66,293	17,445
3 rd	202	201	4
4 th	186	183	3
5 th	241	238	3
6 th	112	112	0
7 th	259	256	3
8 th	295	295	0
9 th	854	995	688
10 th - Nassau	43,154	57,011	13,433
10 th - Suffolk	5,879	7,002	3,311

New York City. During the year, there were a total of 53,274 filings of felony cases in the Supreme and County Courts. Table 9 shows filings and dispositions for each county. As reflected in Figure 4, 87% of cases reached disposition by plea.

The court system's performance standard for felony cases is disposition within six months from filing of the indictment, excluding periods when a case is not within the active management of the court (*e.g.*, warrant outstanding). In 2002, 83% of felony case dispositions Statewide were achieved within the six-month standard.

County Court

The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecutions of both felonies and lesser offenses committed within the county, although in practice most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases, generally involving amounts up to \$25,000. County Court judges are elected to terms of 10 years. The statistical data for County Court's criminal felony caseload is reported in Table 9, in combination with those for Supreme Court.

Figure 4
FELONY DISPOSITIONS: by Type of Disposition - 2002

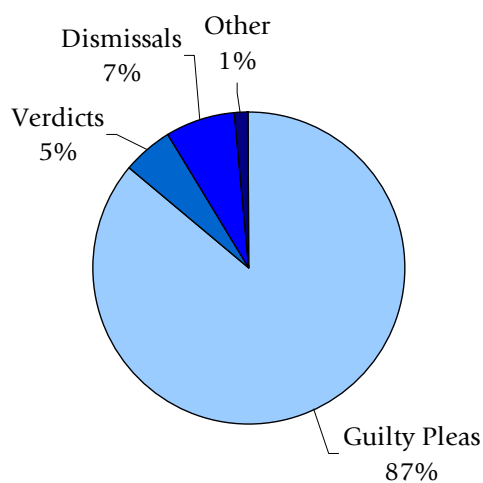


Table 9 SUPREME & COUNTY COURTS - CRIMINAL: Felony Filings & Dispositions - 2002

FILINGS				DISPOSITIONS						
Location	Total	Indictments	Superior Court Informations	Total	Guilty Pleas	Jury Convictions	Jury Acquittals	Non-Jury Verdicts	Dismissals	Other
Total State	53,274	32,961	20,313	56,127	48,375	1,639	673	576	4,060	804
NYC	26,740	20,055	6,685	27,822	22,908	975	440	278	2,685	536
New York	9,360	7,691	1,669	10,242	8,260	381	120	67	1,217	197
Bronx	6,284	4,569	1,715	6,215	5,129	170	169	81	552	114
Kings	5,893	5,273	620	5,877	4,794	241	78	66	539	159
Queens	4,616	2,121	2,495	4,882	4,207	170	68	61	319	57
Richmond	587	401	186	606	518	13	5	3	58	9
Outside NYC	26,534	12,906	13,628	28,305	25,467	664	233	298	1,375	268
Albany	1,280	743	537	1,222	1,104	54	17	1	42	4
Allegany	92	61	31	80	75	0	1	0	3	1
Broome	794	358	436	816	728	12	6	2	66	2
Cattaraugus	171	104	67	183	177	5	1	0	0	0
Cayuga	182	91	91	206	174	12	4	3	11	2
Chautauqua	494	132	362	519	509	3	2	1	4	0
Chemung	336	299	37	323	261	14	5	27	16	0
Chenango	97	81	16	105	91	3	2	0	7	2
Clinton	183	52	131	202	175	0	2	0	9	16
Columbia	130	51	79	129	116	2	2	3	6	0
Cortland	98	28	70	112	94	4	1	1	12	0
Delaware	80	38	42	57	54	2	0	0	1	0
Dutchess	448	151	297	424	358	6	3	0	15	42
Erie	1,875	741	1,134	2,289	2,031	51	16	113	70	8
Essex	83	39	44	75	66	2	1	0	2	4
Franklin	146	81	65	128	115	2	2	0	9	0
Fulton	130	46	84	126	117	1	4	0	4	0
Genesee	205	119	86	236	219	7	4	2	2	2
Greene	113	62	51	111	99	4	4	0	0	4
Hamilton	13	7	6	12	11	1	0	0	0	0
Herkimer	204	92	112	189	186	0	1	0	2	0
Jefferson	482	175	307	485	469	3	5	2	6	0
Lewis	89	28	61	91	77	0	0	0	10	4
Livingston	256	124	132	267	216	4	0	0	40	7
Madison	72	40	32	70	65	3	0	1	1	0
Monroe	1,907	758	1,149	2,045	1,782	115	34	24	56	34
Montgomery	105	40	65	117	109	4	2	0	1	1
Nassau	2,698	636	2,062	3,851	3,270	56	15	21	450	39
Niaqara	459	215	244	489	438	16	5	2	22	6
Oneida	749	524	225	762	691	18	8	8	37	0
Onondaga	1,222	700	522	1,200	1,107	30	8	2	44	9
Ontario	373	220	153	361	331	21	2	1	3	3
Orange	1,123	703	420	1,152	1,065	22	4	8	43	10
Orleans	104	83	21	108	91	3	1	1	10	2
Oswego	237	98	139	233	215	3	2	1	10	2
Otsego	92	57	35	66	58	6	2	0	0	0
Putnam	69	35	34	73	66	3	0	1	1	2
Rensselaer	531	297	234	519	441	15	9	2	49	3
Rockland	577	454	123	538	503	13	1	5	15	1
St. Lawrence	324	183	141	305	283	8	2	0	12	0
Saratoga	266	100	166	308	299	2	0	0	6	1
Schenectady	484	217	267	458	416	19	4	0	16	3
Schoharie	53	24	29	46	40	4	1	0	1	0
Schuyler	39	17	22	43	40	0	0	3	0	0
Seneca	92	49	43	115	99	3	5	0	8	0
Steuben	324	174	150	274	253	3	3	5	5	5
Suffolk	3,274	1,973	1,301	3,280	3,041	32	7	24	148	28
Sullivan	236	88	148	240	227	5	1	1	5	1
Tioga	142	119	23	154	149	0	2	0	3	0
Tompkins	158	110	48	153	130	7	5	2	9	0
Ulster	490	262	228	439	419	8	1	3	7	1
Warren	242	114	128	222	203	3	1	0	15	0
Washington	156	135	21	166	155	2	3	0	4	2
Wayne	262	128	134	307	295	2	2	1	4	3
Westchester	1,460	563	897	1,605	1,462	45	16	24	46	12
Wyoming	156	45	111	154	139	0	3	3	7	2
Yates	77	42	35	65	63	1	1	0	0	0

TRIAL COURTS OF LIMITED JURISDICTION IN NEW YORK CITY

New York City Civil Court Structure

The *New York City Civil Court* has jurisdiction over civil cases involving amounts up to \$25,000. It includes a Small Claims Part and a Commercial Small Claims Part for the informal disposition of matters not exceeding \$3,000. It also has a Housing Part for landlord-tenant proceedings.

New York City Civil Court judges are elected to 10-year terms. Housing judges are appointed by the Chief Administrative Judge to five-year terms.

Caseload Activity

In 2002, there were 770,677 total filings and 501,757 dispositions in Civil Court (see Table 10). The large difference between the number of filings and dispositions is due to the number of cases filed but never pursued by the filing party. Figure 5 shows the proportion of actions filed in each part of the Court during 2002: general civil matters - 44%, housing - 50%, small claims - 5%, and commercial claims - 1%.

Table 10

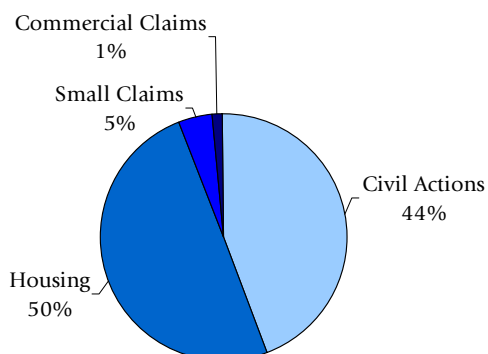
NEW YORK CITY CIVIL COURT: Filings & Dispositions by Case Type - 2002

	CIVIL ACTIONS		HOUSING		SMALL CLAIMS		COMMERCIAL CLAIMS	
	Filings*	Dispositions**	Filings*	Dispositions**	Filings	Dispositions	Filings	Dispositions
New York City	339,564	150,114	385,593	304,546	35,713	36,830	9,807	10,267
New York	55,047	24,071	96,097	67,447	8,456	8,936	3,312	3,432
Bronx	70,142	27,693	111,050	111,650	5,044	5,295	921	937
Kings	98,787	44,522	121,616	89,091	10,194	10,396	2,088	2,153
Queens	107,121	47,483	50,428	32,307	9,916	10,636	2,669	2,878
Richmond	8,467	6,345	6,402	4,051	2,103	1,567	817	867

*Includes both answered and unanswered cases.

**Includes courtroom dispositions and default judgments.

Figure 5
NYC CIVIL COURT FILINGS: by Case Type - 2002



New York City Criminal Court Structure

The *New York City Criminal Court* handles misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for felonies. New York City Criminal Court judges are appointed by the Mayor to 10-year terms.

Caseload Activity

During 2002, there were 324,679 arrest case filings in New York City Criminal Court (see Table 11). Of these, 72% were misdemeanors,

18% felonies, 5% violations or infractions, and 5% "other" types of cases (see Figure 6). Fifty-one percent of the cases reached disposition by plea; 36% were dismissed; 6% were sent to the grand jury; 5% were disposed of by other means; and 2% pled to a superior court information. Only 0.2% of the dispositions in Criminal Court are by verdict after trial. (See Figure 7)

During the year, 473,748 summons cases (cases in which an appearance ticket, returnable in court, is issued to the defendant) were filed and placed on the calendar. There were 339,792 dispositions (see Table 11).

Table 11
NEW YORK CITY CRIMINAL COURT: Filings & Dispositions - 2002

	ARREST CASES		SUMMONS CASES	
	Filings	Dispositions	Filings*	Dispositions
New York City	324,679	325,193	473,748	339,792
New York	101,330	102,178	90,879	61,757
Bronx	70,716	70,450	131,086	83,990
Kings	85,234	85,688	153,566	115,653
Queens	56,218	55,921	82,181	64,572
Richmond	11,091	10,956	16,036	13,820

*Includes both answered and unanswered cases.

Figure 6
NYC CRIMINAL COURT FILINGS: by Case Type - 2002

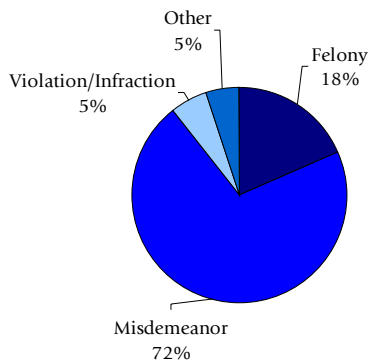
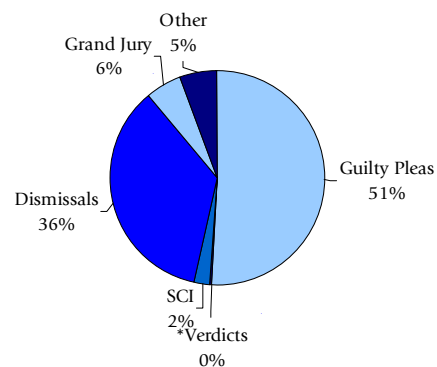


Figure 7
NYC CRIMINAL COURT DISPOSITIONS: by Case Type - 2002



*Only 0.2% of dispositions were by verdict.

TRIAL COURTS OF LIMITED JURISDICTION OUTSIDE NEW YORK CITY

District and City Courts

The trial courts of lesser jurisdiction outside New York City are the City Courts and District Courts.

Structure

City Courts have civil jurisdiction to a maximum of \$15,000. Some City Courts have a Small Claims Part for the informal disposition of matters not exceeding \$3,000, and a Housing Part for landlord-tenant disputes and housing violations. In addition, City Courts exercise criminal jurisdiction over misdemeanors, uniform traffic tickets, and parking tickets in jurisdictions without a parking violations bureau. The judges in these courts serve as criminal magistrates, with the power to arraign for felonies and to issue warrants. City Court judges are either elected or appointed, depending upon the particular city. The term of office for full-time judges is 10 years, and for part-time judges, six years.

District Courts exist in Nassau County and in the five western towns of Suffolk County. District Court jurisdiction extends to civil cases involving amounts up to \$15,000 and to small claims matters not in excess of \$3,000. In criminal cases, District Courts have jurisdiction over misdemeanors, violations and offenses, and also conduct arraignments in felony cases. District Court judges are elected to six-year terms.

Caseload Activity

In 2002, there were a total of 1,249,145 filings and 1,191,780 dispositions in the City and District Courts. Of those cases filed, 23% were criminal, 12% were general civil, 3% small claims, 6% housing, 1% commercial claims, 35% motor vehicle, and 20% parking (see figure 8).

Table 12 contains a breakdown of the filings in the courts of limited jurisdiction outside New York City.

Figure 8
CITY & DISTRICT COURT FILINGS: by Case Type - 2002

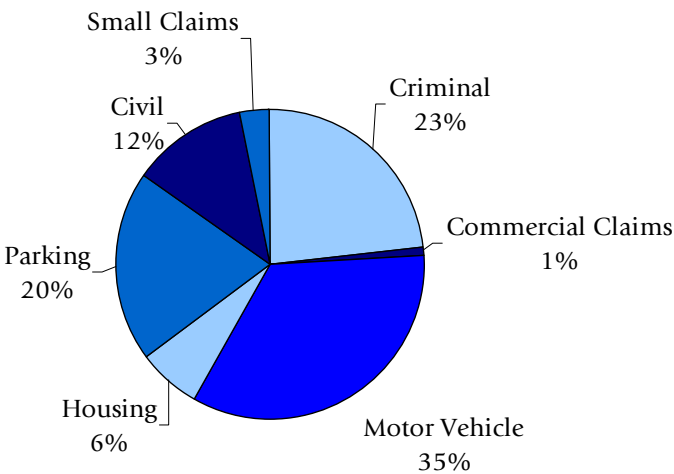


Table 12 CITY & DISTRICT COURTS: Filings by Case Type - 2002

City & District Courts	Motor			Commercial			
	Criminal	Vehicle*	Parking*	Civil	Small Claims	Housing	Claims
Total State	289,982	423,613	252,126	153,013	37,202	80,682	12,527
Albany	7,600	16,604	20	2,875	1,120	4,019	382
Amsterdam	1,035	2,915	0	555	169	85	56
Auburn	2,308	2,788	826	747	524	906	86
Batavia	1,020	2,024	117	202	151	113	56
Beacon	1,218	5,833	0	207	108	167	15
Binghamton	4,846	8,109	2,316	2,318	639	1,045	290
Buffalo	23,455	4,264	0	11,798	3,630	7,969	1,115
Canandaigua	636	2,478	2	672	84	81	67
Cohoes	1,496	6,765	7	253	78	237	50
Corning	940	4,447	1,961	408	271	76	83
Cortland	2,203	3,271	738	599	275	135	62
Dunkirk	1,443	1,830	0	264	162	35	42
Elmira	2,760	4,207	944	1,420	407	1,138	120
Fulton	1,044	2,464	36	847	114	235	28
Geneva	954	3,381	0	202	99	138	23
Glen Cove	781	3,418	2,572	21	141	121	44
Glen Falls	1,824	3,207	0	585	139	220	58
Gloversville	1,556	3,338	0	456	195	205	48
Hornell	821	1,205	0	134	104	175	12
Hudson	1,153	2,219	0	274	153	134	189
Ithaca	2,019	5,172	2,413	689	230	632	86
Jamestown	3,020	3,440	0	1,465	430	222	165
Johnstown	556	1,542	0	261	105	44	41
Kingston	2,232	3,772	263	621	263	444	194
Lackawanna	1,123	3,679	210	120	371	439	40
Little Falls	365	557	0	177	109	11	55
Lockport	1,648	3,213	0	979	358	132	93
Long Beach	1,817	2,597	14,210	24	125	282	40
Mechanicville	335	1,094	0	192	55	69	78
Middletown	1,604	3,029	154	876	285	674	287
Mount Vernon	4,292	5,474	6	1,321	368	1,620	123
Newburgh	3,168	5,213	0	1,084	190	1,535	58
New Rochelle	4,343	13,373	75,472	2,221	511	1,123	182
Niagara Falls	4,866	13,837	14,003	1,746	564	967	171
North Tonawanda	1,259	5,645	0	577	273	167	72
Norwich	740	1,005	157	403	267	35	100
Ogdensburg	1,307	1,265	0	427	121	62	136
Olean	1,094	2,536	93	339	192	106	31
Oneida	1,014	2,480	92	651	138	60	25
Oneonta	1,152	1,323	540	286	212	70	43
Oswego	1,778	4,097	194	828	196	74	12
Peekskill	2,316	3,477	0	375	123	344	29
Plattsburgh	1,668	3,636	0	658	401	233	143
Port Jervis	1,315	2,379	81	189	100	204	32
Poughkeepsie	4,296	6,557	0	1,052	377	1,558	189
Rensselaer	549	1,460	0	228	31	74	82
Rochester	19,678	7,505	0	9,913	2,837	7,405	719
Rome	2,542	7,628	0	979	280	515	44
Rye	484	3,560	0	88	65	11	117
Salamanca	776	981	0	58	90	99	11
Saratoga Springs	1,962	5,360	0	998	273	132	148
Schenectady	4,742	7,033	54	2,072	707	2,511	143
Sherrill	121	847	0	215	47	3	31
Syracuse	17,629	36,491	106,381	8,292	1,391	6,825	372
Tonawanda	1,215	4,782	0	215	227	57	32
Troy	3,020	12,237	903	909	301	4,736	132
Utica	6,709	13,121	2,446	1,851	640	708	167
Watertown	1,768	3,067	0	1,094	279	397	69
Watervliet	438	4,648	4	201	71	289	21
White Plains	3,113	15,050	1,770	787	703	767	279
Yonkers	10,331	24,854	0	2,918	924	8,532	254
Nassau District Court	30,630	21,378	0	49,525	6,411	11,606	2,103
Suffolk District Court	75,855	68,452	23,141	30,272	6,998	7,674	2,552

* Includes answered and unanswered cases.

FAMILY COURT

Structure

The *Family Court* is established in each county and the City of New York to hear matters involving children and families. Its jurisdiction includes:

- Adoption
- Guardianship
- Foster care approval and review
- Delinquency
- Persons in need of supervision
- Family offense (domestic violence)
- Child protective proceedings (abuse and neglect)
- Termination of parental rights
- Custody and visitation
- Support

Family Court judges are elected to 10-year terms in each county outside New York City, and are appointed to 10-year terms by the Mayor in New York City.

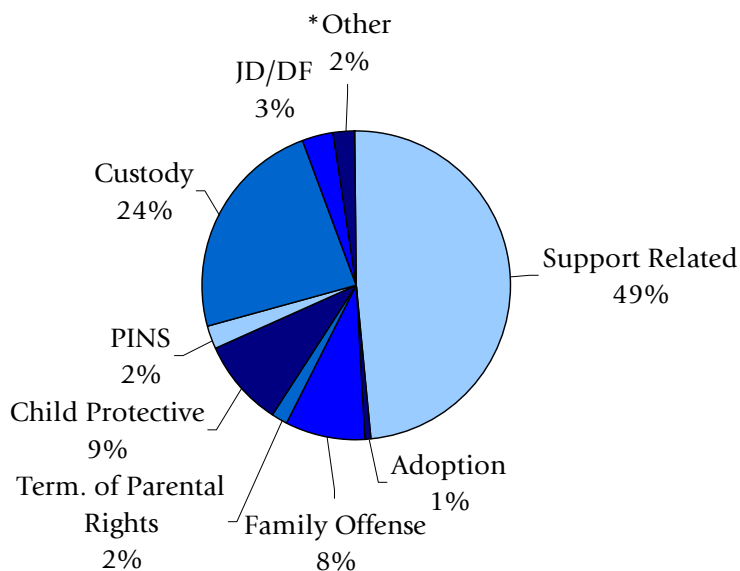
Caseload Activity

During 2002, there were 712,726 cases filed in the Family Courts throughout New York State. A total of 708,131 cases reached disposition. A breakdown of filings and dispositions is contained in Table 13. The statistical data included in the annual report pursuant to sections 213 and 385 of the Family Court Act can be found published separately as Volume II of this report.

The different types of cases filed in Family Court during 2002 are reflected in Figure 9. Cases involving paternity, support, custody, and family offenses comprised 81% of the caseload. The remaining cases involved child protective (9%), juvenile delinquency or designated felonies (3%), persons in need of supervision (2%), adoption (1%), and termination of parental rights cases (2%). All other case types comprised 2% of the caseload.

The court system's performance standard for Family Court cases is disposition within 180 days of the commencement of the proceeding, excluding periods when a case is not within the active management control of the Court. During the year, 95% of dispositions Statewide were reached within the standard.

Figure 9
FAMILY COURT FILINGS: by Case Type - 2002



*Includes Guardianship, Foster Care, Physically Handicapped, Consent to Marry, and Other.

Table 13**FAMILY COURT FILINGS & DISPOSITIONS: by Type of Petition - 2002**

TYPE OF PETITION	TOTAL STATE		NEW YORK CITY		OUTSIDE NYC	
	Filings	Dispositions ^a	Filings	Dispositions	Filings	Dispositions
Termination of Parental Rights	10,980	11,637	8,315	8,872	2,665	2,765
Surrender of Child	3,521	3,403	2,279	2,245	1,242	1,158
Child Protective (Neglect & Abuse)	65,505	66,829	26,064	27,703	39,441	39,126
Juvenile Delinquency	21,885	22,235	7,678	7,931	14,207	14,304
Designated Felony	705	651	366	343	339	308
Persons in Need of Supervision	17,170	16,996	3,494	3,375	13,676	13,621
Adoption	5,282	5,113	3,004	2,935	2,278	2,178
Adoption Certification	468	418	117	95	351	323
Guardianship	4,549	4,518	2,710	2,707	1,839	1,811
Custody of Minors	171,626	168,450	42,084	41,225	129,542	127,225
Foster Care Review	5,615	5,910	2,161	2,337	3,454	3,573
Approval for Foster Care	2,059	2,164	1,274	1,395	785	769
Physically Handicapped	8	17	0	0	8	17
Family Offense	59,098	58,899	27,340	27,795	31,758	31,104
Paternity	90,661	92,509	51,098	52,350	39,563	40,159
Support	239,617	234,731	60,036	58,818	179,581	175,913
Uniform Interstate Family Support Act	13,292	13,003	5,957	5,781	7,335	7,222
Consent to Marry	28	39	5	5	23	34
Other	657	609	130	122	527	487
Total	712,726	708,131	244,112	246,034	468,614	462,097

^a Petition type may change between filing & disposition.

SURROGATE'S COURT

Structure

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills, the administration of estates, and adoptions. Surrogates are elected to 10-year terms in each

county outside New York City and to 14-year terms in each county in New York City.

Caseload Activity

During 2002, there were 158,520 petitions filed and 127,816 dispositions in Surrogate's Court Statewide. (See Table 14) Figure 10 reflects the different types of cases handled by the Court.

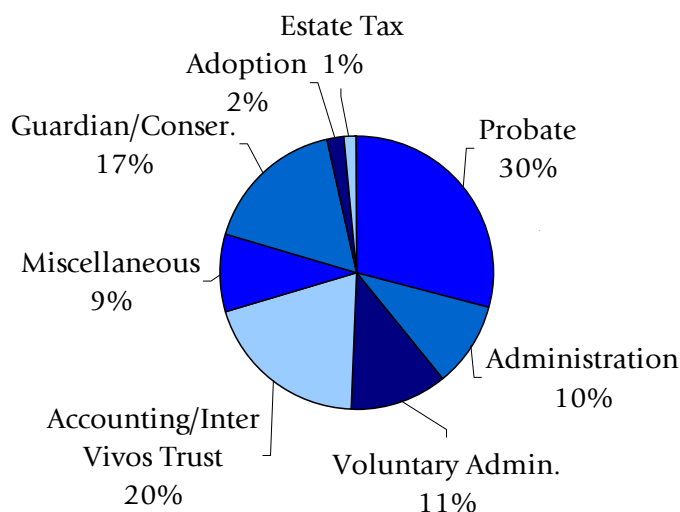
Table 14

SURROGATE'S COURT FILINGS & DISPOSITIONS : Proceedings by Case Type - 2002

	TOTAL STATE		NEW YORK CITY		OUTSIDE NYC	
	Petitions Filed	Dispositions	Petitions Filed	Dispositions	Petitions Filed	Dispositions
Probate	46,236	49,468	14,030	13,775	32,206	35,693
Administration	15,964	14,585	7,931	6,256	8,033	8,329
Voluntary Admin.	18,143	18,143	5,852	5,852	12,291	12,291
Accounting	30,441	9,096	2,675	1,453	27,766	7,643
Inter Vivos Trust	492	238	204	43	288	195
Miscellaneous	14,700	13,775	4,505	4,051	10,195	9,724
Guardian/Conser.	27,169	15,226	6,576	3,477	20,593	11,749
Adoption	3,263	4,966	1,321	1,663	1,942	3,303
Estate Tax	2,112	2,319	714	884	1,398	1,435
Total	158,520	127,816	43,808	37,454	114,712	90,362

Figure 10

SURROGATE'S COURT FILINGS: Proceedings by Case Type - 2002



ARBITRATION

\$6,000 or less, while in New York City cases are limited to \$10,000 or less.

Description

Part 28 of the Rules of the Chief Judge (22 NYCRR), provides for the establishment of mandatory arbitration programs. Programs are operated in 31 counties. Outside New York City, the programs involve damages claimed of

Caseload Activity

Statewide, 18,622 cases were received for arbitration during the year. There were 17,397 dispositions, followed by 1,134 demands for trial *de novo* (see Table 15).

Table 15
INTAKE, DISPOSITIONS & TRIALS *DE NOVO*
IN MANDATORY ARBITRATION PROGRAM - 2002

District	Intake	Dispositions	Demands for Trial De Novo	De Novo Rate
Total State	18,622	17,397	1,134	7%
New York City	1,397	1,551	526	34%
1 st	1,397	1,551	526	34%
2 nd	0	0	0	0%
11 th	0	0	0	0%
12 th	0	0	0	0%
Outside New York City	17,225	15,846	608	4%
3 rd	28	28	0	0%
4 th	12	22	0	0%
5 th	92	81	0	0%
6 th	45	23	1	4%
7 th	2,405	2,408	137	6%
8 th	106	101	5	5%
9 th	81	71	0	0%
10 th - Nassau	2,596	1,566	0	0%
10 th - Suffolk	11,860	11,546	465	4%

COMMUNITY DISPUTE RESOLUTION CENTERS PROGRAM

Description

The Community Dispute Resolution Centers Program (CDRCP), which is part of the Office of Alternative Dispute Resolution Programs, administers, funds, and oversees New York's network of community-based, not-for-profit dispute resolutions centers. These centers serve as a community resource where individuals can discuss and resolve their interpersonal disputes. After center staff carefully screen each case, a neutral third-party mediator, who has been trained in accordance with CDRCP standards, helps the parties work together to develop a mutually agreeable solution. This process gives people in conflict the opportunity to take responsibility for resolving their own disagreements, prevents minor matters from escalating into more serious offenses, and addresses the underlying concerns of all parties. Mediators are trained to help parties with a variety of interpersonal issues, including criminal, civil and/or family matters. A more extensive review of court-based and court-referred ADR programs can be found in Chapter Two.

Caseload Activity

In calendar year 2002, the centers determined that 52,041 cases involving 119,424 individuals were appropriate for dispute resolution. Of those cases, the centers conducted 29,111 conciliations, mediations, and arbitrations that served 67,523 people. Parties entered into voluntary agreements in 86% of the cases that were mediated or conciliated. Centers reported that disputants paid to one another a total of \$8,758,354 either through mediated agreements or arbitration awards. The average payment per case was \$1,915. The average single-hearing mediation or arbitration took 18 days from intake to final disposition. The average multiple-hearing case took 61 days for resolution. (The more complex cases, such as custody, visitation, or selected civil disputes, are often handled in multiple sessions.)

The centers continued to help families in New York State resolve highly emotional family disputes, including 8,587 child custody, visitation or support cases; 552 divorce or separation cases; and 1,917 PINS (Persons In Need of Supervision) cases.

A total of 8,262 cases (16% of the overall caseload) involved disputes among family members and domestic partners, including cases between parties who are married, separated or divorced from one another.

Table 16 COMMUNITY DISPUTE RESOLUTION CENTERS¹ WORKLOAD: New York State by County - 2002

County	Total Cases	Total Dispositions	DISPOSITIONS BY TYPE			
			Conciliations	Mediated Agreements	Mediated, No Agreement	Arbitrations
Total State	51,859	28,982	12,575	11,466	4,076	865
New York City	10,335	5,851	1,143	3,357	1,145	206
New York	2,117	1,276	195	675	303	103
Bronx	1,886	860	216	462	162	20
Kings	2,916	1,643	259	901	441	42
Queens	2,082	1,109	279	639	169	22
Richmond	1,334	963	194	680	70	19
Outside New York City	41,524	23,131	11,432	8,109	2,931	659
Albany	448	351	0	237	85	29
Allegany	44	26	4	19	3	0
Broome	1,144	552	71	321	146	14
Cattaraugus	241	79	23	49	7	0
Cayuga	48	22	4	11	6	1
Chautauqua	891	313	53	194	65	1
Chemung	505	224	47	155	19	3
Chenango	645	115	37	63	15	0
Clinton	582	340	148	144	45	3
Columbia	245	81	4	55	18	4
Cortland	144	77	10	54	13	0
Delaware	390	112	9	85	16	2
Dutchess	1,366	457	7	254	179	17
Erie	16,550	8,787	8,282	311	58	136
Essex	83	30	14	8	7	1
Franklin	32	20	13	7	0	0
Fulton	63	28	0	19	8	1
Genesee	24	12	5	4	1	2
Greene	459	191	158	19	9	5
Hamilton	2	1	0	1	0	0
Herkimer	744	337	210	111	5	11
Jefferson	561	305	152	120	26	7
Lewis	53	24	7	14	3	0
Livingston	328	218	24	159	34	1
Madison	92	36	12	19	5	0
Monroe	1,357	637	111	336	103	87
Montgomery	174	100	7	59	31	3
Nassau	3,413	2,949	260	1,674	961	54
Niagara	581	190	51	116	21	2
Oneida	331	220	12	143	6	59
Onondaga	1,473	717	162	442	87	26
Ontario	114	59	5	50	4	0
Orange	403	306	70	139	91	6
Orleans	10	4	4	0	0	0
Oswego	300	160	12	119	29	0
Otsego	492	214	16	146	50	2
Putnam	70	50	7	21	18	4
Rensselaer	130	115	1	74	40	0
Rockland	226	165	8	92	28	37
Saratoga	299	118	10	70	31	7
Schenectady	290	130	16	64	39	11
Schoharie	34	20	5	10	3	2
Schuyler	86	51	22	24	5	0
Seneca	67	39	8	19	12	0
St. Lawrence	532	509	327	157	13	12
Steuben	310	153	68	69	16	0
Suffolk	798	651	9	347	250	45
Sullivan	209	198	11	152	35	0
Tioga	129	76	12	57	7	0
Tompkins	549	269	38	171	60	0
Ulster	390	210	45	115	43	7
Warren	195	125	57	63	5	0
Washington	65	57	13	43	1	0
Wayne	130	84	7	55	22	0
Westchester	2,603	1,758	759	801	142	56
Wyoming	15	7	0	7	0	0
Yates	65	52	5	41	5	1

Notes: ¹Chapter 847 of the Laws of 1981 created this program, which has provided alternative mechanics for the resolution of minor disputes, both criminal and civil.

Source: Compiled May 7, 2003 from data submitted to the State ADR Office by Community Dispute Resolution Centers

CHAPTER 2

Administration of the Courts

Administration

Section 28 of Article VI of the State Constitution provides that the Chief Judge of the Court of Appeals is the Chief Judge of the State and its chief judicial officer. The Chief Judge appoints a Chief Administrative Judge of the Courts (or Chief Administrator of the Courts if the appointee is not a judge) with the advice and consent of the Administrative Board of the Courts. The Administrative Board consists of the Chief Judge as chair and the Presiding Justices of the four Appellate Divisions of the Supreme Court. The Chief Judge establishes Statewide administrative standards and policies after consultation with the Administrative Board and approval by the Court of Appeals.

The Court of Appeals and the Appellate Divisions are responsible for the administration of their respective courts. The Appellate Divisions also oversee several appellate auxiliary operations: candidate fitness, attorney discipline, assigned counsel, law guardians, and the Mental Hygiene Legal Service.

The Chief Administrative Judge, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for establishing and directing an administrative office for the courts -- the Office of Court Administration. In this task, the Chief Administrator is assisted by two Deputy Chief Administrative Judges who supervise the day-to-day operations of the courts -- one for New York City and one for the courts outside of New York City.

In addition to the overall supervisory duties of these two Deputy Chief Administrative Judges, responsibility for on-site management of the trial

courts and agencies is vested in local Administrative Judges. In each judicial district outside New York City, a District Administrative Judge is responsible for supervising all courts and agencies. In New York City, an Administrative Judge supervises each major court. The Administrative Judges manage court caseloads and are responsible for general administrative functions, including personnel and budget administration.

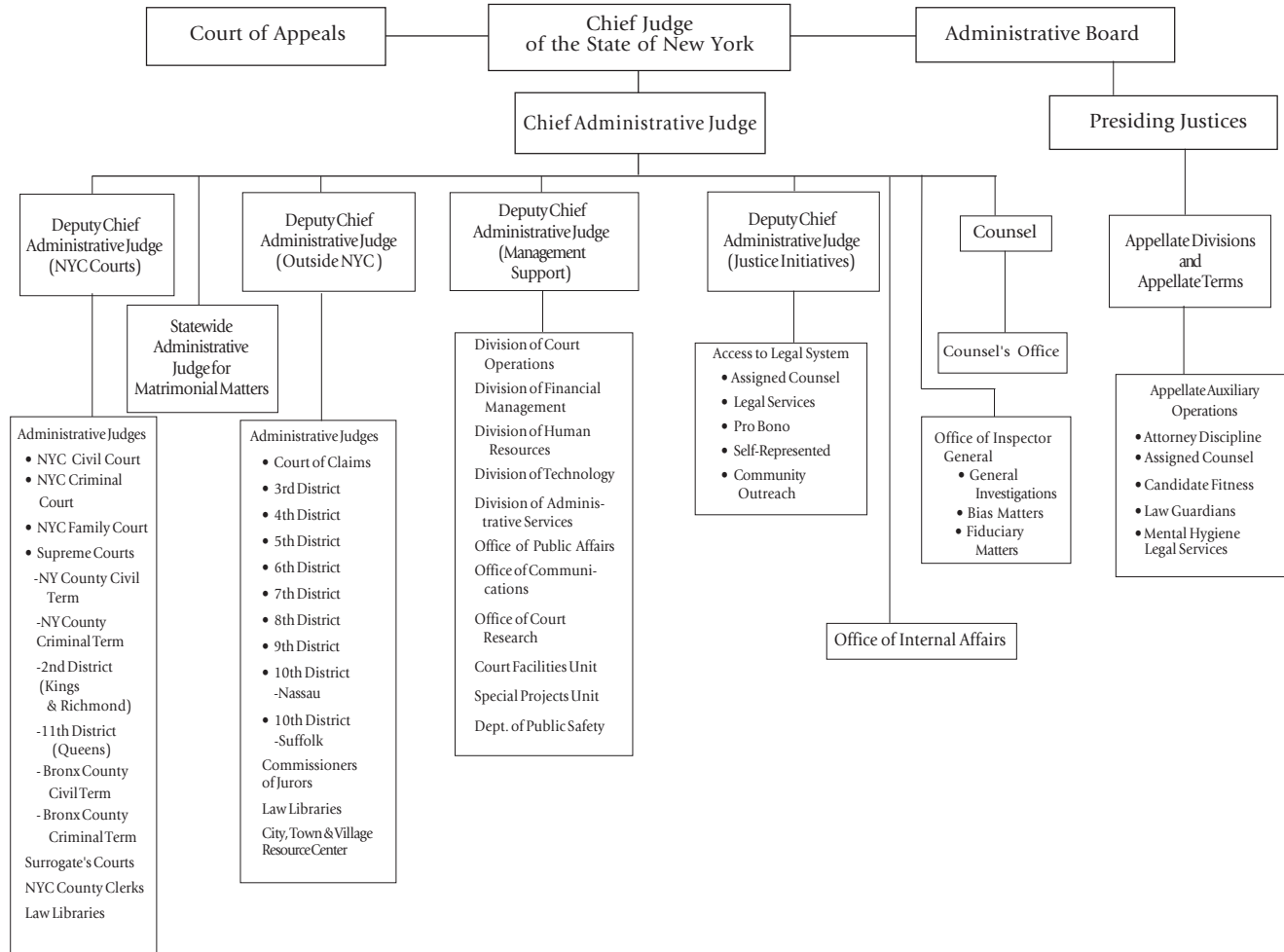
The Chief Administrative Judge is also assisted by a Deputy Chief Administrative Judge who is responsible for the operations of the divisions and offices that comprise the Office of Management Support, a Deputy Chief Administrative Judge for Justice Initiatives, and a Statewide Administrative Judge for Matrimonial Matters. (Their work is outlined below.)

In addition, the Chief Administrative Judge has a Counsel, who directs the legal and legislative work of the Counsel's Office. Counsel's Office prepares and analyzes legislation, represents the UCS in litigation, and provides various other forms of legal assistance to the Chief Administrative Judge.

The legislative work of Counsel's Office and its supporting advisory committees is reported in Chapter Four. The work of other advisory committees which have been established to assist the Chief Judge and the Chief Administrative Judge is reported in Chapter Three.

Two administrative offices also report directly to the Chief Administrative Judge. These are the Office of the Inspector General (whose work is outlined below) and the Office of Internal Affairs, which performs internal audits and investigations. (See Figure 11 for a diagram of the administrative structure of the UCS.)

Figure 11
UNIFIED COURT SYSTEM ADMINISTRATIVE STRUCTURE



DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR MANAGEMENT SUPPORT

The Deputy Chief Administrative Judge for Management Support supervises the Office of Management Support which provides the administrative services required to support all court and auxiliary operations. The Office consists of five separate Divisions: Court Operations, overseeing trial court operations, legal information and records management, security administration, and alternative dispute resolution programs; Financial Management, responsible for the Judiciary budget and payroll operations; Human Resources, encompassing personnel administration, employee relations, judicial benefits, professional development and the workforce diversity office; Administrative Services; and Technology. In addition, there are three offices: Court Research, providing caseload activity statistics and related services; Public Affairs; and Communications, which serves as the spokesperson for the court system. Also included under the direction of the Office of Management Support are a Facilities Unit that assists localities in meeting their court facility obligations, the Department of Public Safety, and a Special Projects Unit which works with the courts in implementing the model courts developed by the Center for Court Innovation. (The Center's work is highlighted in Chapter 3.)

Division of Financial Management

The Division of Financial Management is responsible for the preparation, review and implementation of the Judiciary budget. It also develops and promulgates, on behalf of the Chief Administrative Judge, fiscal policies and procedures and performs other related functions. In addition, it supports the Unified Court System's (UCS) goals and objectives by requesting and allocating the necessary funds to carry them out.

In addition, the Division oversees the operations of the Central Payroll Office located in New York City and Albany. This office is responsible for the accurate and timely biweekly payment of over 12,000 judges and nonjudicial Unified Court System employees. Central Payroll processes all employee deductions for State and local taxes, health insurance, etc., as well as literally thousands of overtime claims for each

pay period. In addition, the office also performs audits of all New York City based employee time records to ensure adequacy of leave accruals to cover absences.

The UCS's budget is based upon a fiscal year that runs from April 1 through March 31 of the following year. Each year, the budget is presented by the Chief Administrative Judge to the Court of Appeals for approval and for certification by the Chief Judge. After certification, it is transmitted to the Governor for inclusion in the State budget. Although the budget is to be submitted to the State Legislature by the Governor without revision, recommendations may be included as deemed appropriate by the Governor.

The court operations budget request includes personal services (salaries for judges and nonjudicial personnel) and nonpersonal services (all other expenses, including equipment, supplies, etc.). Over 80% of the budget is allocated to the payment of personal services.

The budget request submitted for the 2002-03 fiscal year was approved by the Legislature as presented. A total of \$1.39 billion was appropriated for court and agency operations, reflecting a 4.2% increase over the previous year's allocation. The funding provided in this budget will continue, undiminished, to support the operational capacity of trial courts to process current caseloads. Included in the court and agency operations base budget component are funds necessary to meet the court system's usual and normal budgetary requirements — support of current judgeships; payment of salary increases, service increments and longevity bonuses to eligible employees in April 2002; continued automation for judges' chambers, courtrooms and operations offices under CourtNet; continued jury reform; and contractual services such as court security and law guardian representation.

This budget also provides funding for approximately 100 new positions targeted to the enhancement of security needs in the aftermath of September eleventh. In addition, funding is included, on a limited basis, to support initiatives in the Family Court, including support for increased workload associated with the Adoption and Safe Family Act, Family Treatment Courts to address the growing problem of drug abuse and child neglect, and dedicated Domestic Violence parts. The budget also provides funding for the continuation of drug treatment courts being phased in throughout the State.

Division of Court Operations

The Division of Court Operations oversees Statewide responsibilities in the areas of trial court operations, records management, legal information, security administration and alternative dispute resolution. In addition, it coordinates activities related to the Americans with Disabilities Act and the UCS Domestic Violence Policy, as they impact on court operations. The mission of the Division is to assist in the development of standards and the establishment of guidelines, as well as to support the trial courts, jury offices and librarians in carrying out their mandate to provide efficient and quality service for all court users. In 2002, the Division's offices met their challenges in the following ways:

Office of Trial Courts

The Office of Trial Courts provides direct operational assistance and administrative support to courts and court agencies by identifying strong business practices and acting as a "network" for sharing such practices to insure improved and enhanced performance.

Among its accomplishments this year, the Office partnered with the Division of Technology in the successful Statewide implementation of the Universal Case Management System("UCMS") in the Family Courts. The

goal of UCMS is the standardization of all court data. In addition, the Office worked with the *Electronic Court Advisory Forum*, a group of specialists from each court type, in enhancing chat rooms to facilitate the ability of court managers to communicate and share issues electronically with colleagues. It also made substantial improvements to data collection processes by creating several databases to enhance the functioning of its Security Administration Unit.

Office of Alternative Dispute Resolution Programs

The court system makes use of a variety of innovative alternative dispute resolution processes as expeditious and cost-effective options to litigation. The Office of Alternative Dispute Resolution Programs helps courts at every level to design, implement and evaluate court-annexed ADR initiatives that offer arbitration, mediation, neutral evaluation, or summary jury trials. The Office also provides ongoing support to the Attorney-Client Fee Dispute Resolution Program, which offers arbitration and, in some cases, mediation for fee disputes between attorneys and clients in most civil cases.

Among new initiatives this year, the ADR Office assisted the Nassau County Supreme



Thomas Buckner

Alice Rudnick and Mike Allegretta of the Office of ADR Programs undertaking the task of placing the ADR library on line with the court system's Library and Information Network (LION)

Court, Commercial Division, in developing a mediation program for commercial cases and trained the mediators who are serving on the Court's roster. The Office also worked closely with stakeholders in New York City Family Court to develop a pilot mediation program for child permanency cases at the post-dispositional stage. This pilot program is scheduled to begin in January 2003, in Kings County.

The Office also administers the Community Dispute Resolution Centers Program (CDRCP) which supplies financial support and program oversight to a Statewide network of not-for-profit, community-based dispute resolution centers. Since 1981, these centers have provided dispute resolution services for minor civil, criminal and family matters referred from courts and community agencies in all 62 counties.

This year, the Office initiated or otherwise contributed to a wide variety of innovative projects involving the CDRCP: a collaboration with the United States Department of Agriculture to provide mediation services in New York State for farm-related matters; regional forums held across the State, sponsored by the Office of Children and Family Services, to promote the availability of mediation for appropriate PINS (Persons In Need of Supervision) cases; a new child custody and visitation mediation program in Bronx County; and conflict management workshops for nonjudicial employees as part of the court system's Quality Service Initiative.

The Office maintains a web site at www.nycourts.gov/ip/adr/, and it publishes The New York Mediator, which is written primarily for mediators who serve in the community dispute resolution centers.

Office of Legal Information

The Office of Legal Information provides professional support and on-site assistance to courts, law libraries and the public in the area of legal research and library management. The Office develops, coordinates and implements policies and programs that enable courts to make the best use of the multitude of legal information available to serve the legal community and honor the courts' commitment to public service. In every county of the State, a public law library provides resources to the bar, local attorneys and the general public. Legal Information staff provide professional assistance to each of these libraries, including help in implementing the latest

technological advances. In addition to continuing to provide the more traditional legal research tools to the courts as well as the public, the office is continuing to increase the use of computer-assisted legal research materials.

The Office of Legal Information also maintains the 1-800-COURT NY toll-free telephone, hosted by a team of court law librarians available to answer a wide range of questions and refer calls to the most appropriate court, government or community resource.

Office of Records Management

The Office of Records Management is responsible for developing standards for managing information in various formats. For many years, that meant paper and microphotographic formats such as fiche and roll film. The focus is now on electronic recordkeeping. For example, the Office has developed electronic document management systems in use in several Surrogate's Courts. As part of that effort, this year, the Office worked closely with the Seventh Judicial District as they developed this form of information system for their Surrogate's Courts. The Office also focused on Surrogate's Courts in the Eighth Judicial District and New York City, helping them employ similar electronic information systems.

While the Office continues to produce high quality micrographics products, it has now begun to shift much of its work to a new electronic information section where records can be scanned from paper, film or fiche into digital formats. Projects are underway to digitize records produced by a number of OCA paper-intensive offices. This should facilitate a more efficient format for record storage and retrieval.

Work on the Brooklyn Army Terminal Facility for New York City Court Record storage is complete and will be available for use in summer, 2003. This facility will ultimately utilize two floors for the storage and retrieval of more than 200,000 cubic feet of records.

Division of Technology

The Division of Technology (DoT) provides information processing and technology services for the Unified Court System. CourtNet is the court system's high-speed, standards-based network, which is the backbone for implementing technological initiatives that enhance the operation of the courts. In 2002,

the Division continued to implement changes and enhancements to existing systems and develop new applications, including the following:

Universal Case Management System

The Universal Case Management System (UCMS) was first introduced in 2001, in Family Court. The goal of this system is to manage court caseloads by standardizing data Statewide, providing data access real-time to judges and clerks, and streamlining case management through electronic and operational modifications. By the end of 2002, UCMS had been installed in 47 Family Courts, with complete Statewide installation scheduled for mid-2003.

In future years, UCMS will be expanded to include the Civil, Criminal and Surrogate's Courts. The implementation of this system will facilitate data communications among courts, other OCA systems, including the attorney registration and the caseload activity reporting systems, and outside law enforcement agencies.

Criminal Disposition Reporting

During the year, DoT began using the criminal disposition reporting system to collect electronic criminal dispositions from the Town and Village Courts. So far, dispositions are being received from approximately 40 such courts around the State. This information is gathered through uploads to the CDR database and collected via the Town and Village Resource Center's web page on the Internet. Development is underway for a complete case management solution for the Town and Village Courts.

DoT is also working with the State Police and the Division of Motor Vehicles to create an automated method for the police to send courts initial traffic ticket reports and then receive final reports of ticket dispositions. A pilot program in one upstate county is now in place.

Human Resources Automation Initiatives

DoT is working with the Division of Human Resources and an outside vendor to develop and implement software for a web-based application for time and leave procedures. This application, which has been introduced to non-overtime eligible employees as part of a pilot program, can manage and display an employee's time and leave information including time in, time out, and annual and sick leave accruals, as well as other

crucial information. Development is also underway on a human resource management system application that will collect important personnel history reflecting appointments, promotions, status and other relevant information. This application will be able to interface with the new time and leave system.

Universal Budget System (UBS)

DoT is working closely with the Division of Financial Management (DFM) to design and develop the Universal Budget System (UBS), a web-based application that will be available via CourtNet. The first phase of UBS is the budget request subsystem, which will allow courts and agencies to develop and submit their budget requests via CourtNet. Budget requests will be reviewed and adjusted, at appropriate levels, allowing DFM to develop the budget figures for the entire court system, in preparation for submission to the Legislature. The budget request subsystem is scheduled to be piloted starting in June, 2003. Future phases of UBS will include budget maintenance, position management, and financial inquiry subsystems.

Future Court Appearance System

The Future Court Appearance System provides free case and calendar information over the Internet for civil Supreme Court matters throughout the State. Users are able to search for a case by index number, or name of plaintiff, defendant, or law firm. Appearance information from 21 different criminal courts is also available. By typing a defendant's name into this Internet application, the user can find the next court appearance for that defendant. The project's aim is to add to this system case information for all court types and locations.

Video Appearance for Inmates Pilot Project

In New York City, a pilot video appearance program was implemented, connecting the Rikers Island Correctional Facility and Manhattan Criminal Court. This enables video arraignments between the courtroom and an inmate's correctional facility, eliminating the need for transportation and significantly streamlining the disposition of arraignments. Based on the success of this pilot, plans are underway to expand the video appearance program over the next year throughout New York City.

Division of Human Resources

The Division of Human Resources' five operational offices provide a wide range of personnel and employment-related support to the courts. Most notably, the Personnel Office administers the Judiciary's civil service system and oversees implementation of the classification plan and competitive-based staffing. The Employee Relations Office oversees labor/management initiatives and negotiates and administers collective bargaining agreements with the 13 unions that represent the court system's nonjudicial personnel.

The Career Services and Workforce Diversity Offices develop and deliver the court system's extensive training programs as well as provide resources and support for employee development. The Judiciary Benefits Office works with Executive Branch agencies to ensure the administration of health and retirement benefits and develops and arranges for the delivery of additional benefit resources for judicial and nonjudicial personnel.

Throughout the year, the Division met the challenge of delivering programs and administering benefits designed to support and enhance the worklives of judges and nonjudicial personnel. The following overview highlights some of these successful programs and services:

Employee Development

The Career Services Office introduced a number of new training initiatives as part of an ongoing commitment to support and enhance the professional development of court system personnel. Among these were two performance management programs for managers and supervisors, developed and presented through a collaborative effort with other OCA divisions. One program focused on managing technology, and another on dealing with difficult employees.

For the first time, court reporters were offered a professional development program with a focus on technologies and skill enhancement. As part of that program, an informational pamphlet highlighting court reporter employment within the court system was issued. In addition, the court reporters' work manual was revised.

The Court Officers Academy initiated a program specifically designed for those who serve with the recently-established mobile

security patrol. Training was also presented to contract security personnel assigned to upstate courts. Other training initiatives were continued to be offered for the more than 5,000 peace officers employed by the court system.

The Career Services Office expanded successful programs from previous years. Among the most notable were the Personal Professional Development (PPD) Program, designed to improve the skills and confidence of employees serving in clerical support positions, and Making the Transition, tailored to employees who have been promoted to positions with supervisory responsibilities. In addition, training programs also continued for executive and senior managers. These focused on leadership, communication and other skills essential to successful management. Also included was a diversity program where managers were challenged to examine their skill at embracing the rich and varied workplace of today.

Nonjudicial personnel continued to participate in quality service programs designed to ensure that professionalism and courtesy are accorded to all court users. These programs emphasize the court system's missions of professionalism and courtesy, as well as the enhancement of conflict resolution skills.

Workforce Diversity

The Workforce Diversity Office helps develop the critical skills necessary to recognize and respond to all types of diversity so as to achieve success in the workplace. It also works to ensure a diverse workforce in order to foster a professional, responsive work environment. This year, the Office introduced a Legal Fellows program, available to law school graduates interested in pursuing a legal career in public service. Legal fellows are assigned to judges and court employees for one-year to gain hands-on experience in courtroom proceedings and court operations. They are also provided with opportunities to participate in educational forums facilitated by professionals from within the legal community.

The Office presented a variety of programs designed to enhance recruitment efforts and developed its Justiceworks training program to address diversity issues in the workplace. It also continued to present its Statewide mandatory sexual harassment training to nonjudicial employees and judges.

Division of Administrative Services

The Division of Administrative Services provides a wide range of support services to the trial courts and to OCA's divisions and offices. These services include key office management functions that support the day-to-day operation of central and local administration; major purchasing, contract procurement, accounts management, and revenue processing responsibilities. They also include high-volume data-entry services and management of criminal history search operations serving private businesses and government agencies that generate approximately \$10 million in annual revenue. In addition, the Division performs significant Statewide information management functions involving a variety of registration, certification, and application processes (largely related to the status of attorneys and case processing) and oversees the staff of the Continuing Legal Education Department.

Attorney Registration

Section 468-a of the Judiciary Law and the Rules of the Chief Administrator (22 NYCRR 118) require all duly admitted New York attorneys to file a biennial registration form. The filing requirement is mandatory for all attorneys licensed to practice law in New York, whether resident or nonresident and whether or not in good standing. An accompanying fee of \$300 is required to be paid with each biennial registration, except from those attorneys who certify that they are retired from the practice of law.

As of the end of calendar year 2002, 197,119 attorneys were registered with OCA. Table 17 reflects the number of attorneys with business addresses in each county within the State, as well as those that list addresses elsewhere.

The Attorney Registration Unit receives 300 to 400 phone calls a day from or about attorneys, and responds to hundreds of questions a week received in e-mails and letters. During the year, the Attorney Registration Unit processed 124,797 registrations and collected \$ 32,448,350 in registration fees. Pursuant to Section 468-a of the Judiciary Law, \$60 of each registration fee paid is allocated to the Lawyers Fund for Client Protection, and the balance goes to the Attorney Licensing Fund.

Secure Pass Identification Cards

In April, the Chief Administrative Judge an-

nounced the availability of a new "Secure Pass" identification card for New York attorneys. These new ID cards afford holders convenient access to courthouses throughout the State without subjecting them to magnetometer screening, while at the same time maintaining the highest level of security for the facility. The new cards are designed with enhanced security features incorporating cutting-edge technology and replace existing attorney identification cards previously issued.

Attorneys applying for the cards are required to pay a processing fee and undergo a thorough application process, including a criminal history search, before being issued the new card. During the year, the Secure Pass Unit issued more than 17,000 Secure Pass ID cards to attorneys.

Fiduciary Reporting Process

Part 36 of the Rules of the Chief Administrator (22 NYCRR Part 36) requires that all appointments of guardians, court evaluators, attorneys for alleged incapacitated persons, referees, guardians *ad litem*, receivers and persons designated to perform services for receivers be made by the appointing judge from a list of applicants established by the Chief Administrative Judge, unless the court finds there is good reason to appoint someone who is not on the list and places a statement to that effect on the record.

During 2002, 9,058 notices of appointment were filed with the Chief Administrative Judge by fiduciaries. Section 35-a of the Judiciary Law requires judges who approve the payment of a fee for more than \$500 for services performed by any person appointed by the court pursuant to Part 36 to file a statement of approval of compensation with OCA. In 2002, OCA received 6,836 statements of approval.

Retainer and Closing Statements

Pursuant to 22 NYCRR Parts 603.7, 691.20 and 1022.2, attorneys who enter into a contingent-fee agreement in any case involving personal injury, property damage, wrongful death, or claims in connection with condemnation or change of grade proceedings in the First, Second, or Fourth Departments must file a statement of the retainer with OCA. These retainer statements include the date of the agreement, plaintiff's name and terms of compensation.

In addition, in any case or proceeding that requires a retainer statement, a closing statement

Table 17
ATTORNEY REGISTRATION BY LOCATION – Calendar Year 2002

COUNTY OF BUSINESS*

<i>Location</i>	<i>Total</i>	<i>Location</i>	<i>Total</i>
Albany	3,997	Otsego	113
Allegany	45	Putnam	275
Bronx	2,255	Queens	5,011
Broome	625	Rensselaer	417
Cattaraugus	104	Richmond	1,149
Cayuga	108	Rockland	1,381
Chautauqua	236	St. Lawrence	116
Chemung	176	Saratoga	473
Chenango	66	Schenectady	417
Clinton	116	Schoharie	53
Columbia	177	Schuyler	27
Cortland	67	Seneca	39
Delaware	83	Steuben	155
Dutchess	824	Suffolk	5,855
Erie	4,447	Sullivan	209
Essex	121	Tioga	59
Franklin	75	Tompkins	333
Fulton	77	Ulster	439
Genesee	94	Warren	213
Greene	108	Washington	79
Hamilton	10	Wayne	94
Herkimer	75	Westchester	8,799
Jefferson	163	Wyoming	48
Kings	6,532	Yates	21
Lewis	20		
Livingston	80	Total In-State	137,108
Madison	106		
Monroe	3,135	Outside N.Y. State	52,545
Montgomery	87		
Nassau	12,231	Out of USA	7,466
New York	70,719		
Niagara	361	Total	197,119
Oneida	543		
Onondaga	2,274		
Ontario	186		
Orange	861		
Orleans	28		
Oswego	121		

**Number of Attorneys by
Judicial Department of Business***

First Department	72,973
Second Department	42,919
Third Department	8,839
Fourth Department	12,377

* If no business address, county of residence

must be filed within 15 days after the attorney receives or shares in any sum received in connection with the claim. This statement must include information indicating the gross amount of the settlement or award (if any), the net distribution between client and attorney, and a breakdown of other expenses and disbursements. A closing statement must also be filed if an action is abandoned or if the agreement is terminated without recovery.

During 2002, 422,383 retainer and closing statements were processed. Of these, 172,119 were filed in the First Department; 228,226 in the Second; and 22,038 in the Fourth Department.

Adoption Affidavits

In accordance with the rules of the respective Appellate Divisions, 22 NYCRR Parts 603.23 (1st Dept.), 691.23 (2nd Dept.), 806.14 (3rd Dept.), and 1022.33 (4th Dept.), all attorneys in adoption proceedings must file an affidavit with OCA concerning the adoption prior to the entry of the adoption decree. The objective of the filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services.

During 2002, 6,545 adoption affidavits were filed with OCA.

Continuing Legal Education

Continuing legal education is mandatory for attorneys in New York State. Newly admitted attorneys are required to complete 32 hours of accredited CLE within the first two years of admission. Experienced attorneys, those who are admitted to practice in the State more than two years, are required to complete 24 hours of accredited CLE every two years.

The CLE program has been designed flexibly, so that experienced attorneys may fulfill their requirement in a variety of ways, ranging from attendance at live CLE programs and taped courses, to teaching and lecturing, or by performing *pro bono* legal services or writing articles for legal publications.

During the year, audits for CLE compliance were conducted on 500 randomly selected New York attorneys. Of the 250 experienced attorneys who were audited, 234 attorneys (94%) responded; of those, 97% (227 attorneys) were found to be in compliance. Responses were received from 235 of the 250 newly admitted attorneys who were questioned; of those, 98% (231 attorneys) were found to be in compliance.

Many of New York's 370 CLE Accredited Providers were also audited during the year, as their initial three-year accreditation periods expired, and their past CLE activities underwent careful review in connection with their re-accreditation.

Under regulations and guidelines promulgated last year, the CLE Board this year approved as Pro Bono CLE Providers more than 25 organizations that provide *pro bono* legal services to indigent persons in the State.

Additional information on the CLE program is accessible through the CLE web site at www.nycourts.gov, or by e-mail directed to CLE@courts.state.ny.us.

Court Facilities

Trial and appellate court facilities in New York State are provided and operated by the cities and counties they serve. Since the adoption by the State of the Court Facilities Act (CFA) in 1987, the UCS has been providing guidance, direction, and financial assistance to local governments to help them meet their facilities responsibilities. In accordance with the CFA, the State administers a capital planning process that requires localities to assess their court facilities needs and propose required improvements. The State then provides both technical assistance and interest subsidies to help defray the borrowing costs. It also reimburses localities for all facilities-related expenses associated with the Appellate Division courts. Collectively, these programs have sparked a renaissance in court facilities across the State and now provide over \$80 million a year to cities and counties to help meet their court facilities needs.

Several new court facilities were completed and placed in operation during the year, in part as a result of this program: a new Queens County Family Court Building; a major renovation of the Queens County Supreme Courthouse, which was substantially completed, and a totally new court complex in Yates County. Construction also continued on the two largest and most ambitious court facilities ever built in New York — the 74-courtroom Kings County Supreme/Criminal and Family Courthouse being built by a private developer which was "topped out" in October, and the new 47-courtroom Bronx County Supreme/Criminal Courthouse being built by the State Dormitory Authority.

Several other major court facilities are under construction and nearing completion, including a combined new County Courthouse and City

Harry Salis



The new Yates County court complex located in Penn Yann, New York

Court for Onondaga County and the City of Syracuse, a major reconstruction of and addition to the Westchester County Court Complex in White Plains, and an adaptive reuse of a Post Office building to serve as the center for a new court complex in Jefferson County.

Planning and design work continued to address court facilities needs in New York County, Richmond County, the eastern portion of Suffolk County, Nassau County Family Court and the City of Newburgh.

In addition to assisting in the building process, the State is now fully responsible, by contracts with the host localities, for providing court cleaning and minor repairs. The State also strengthened inspection activities to ensure that the State's court facilities are clean, sanitary, and well-maintained. And, during the year, the State assumed, on a temporary basis through the Office of General Services, full responsibility for cleaning and making needed tenant work improvements to court facilities in Nassau County.

Office of Court Research

The Office of Court Research provides caseload activity statistics, jury system support and operations research services to all courts within the UCS. In its role as the statistics office for the court system, the Office of Court Research

prepares analyses of caseload activity for court administrators in the areas of caseload performance, judicial needs analysis and court staffing. The Office also provides caseload activity information to other agencies, the press and public.

The Office's Research Unit studies methods for improving court operations. The Jury System Unit supports all aspects of the Chief Judge's jury reform program and provides operational and fiscal support to jury systems Statewide.

Department of Public Safety

The Department of Public Safety was created following the events of September 11, 2001, to develop, oversee and implement security policies and procedures throughout the State Court System. In carrying out its mandate, the Department consults with and advises high-level court administrators on security matters, establishes procedures for handling threats against the Judiciary, oversees requests for security equipment and is responsible for maintaining the Court Officers Rules and Procedures Manual. The Department also works closely with the Court Facilities Unit to design and implement physical security components for new and renovated court facilities.

Since its inception, Public Safety has been responsible for the development and

implementation of emergency preparedness planning and procedures throughout the court system. This includes the completion of emergency plans for each court location, as well as conducting and reviewing evacuation drills at the various facilities. The Department works to ensure that all facilities are in compliance with OSHA regulations regarding emergency procedures. Emergency equipment is evaluated and, as appropriate, purchased and deployed throughout the courts.

The Department has been instrumental in the creation of the Mobile Security Patrol (MSP) Unit. This Unit uses marked vehicles to provide increased security, particularly during off-hours, for court facilities located in New York City. The MSP Unit allows for the quick and efficient response of security personnel to security-related incidents. The Unit creates a public presence and serves as a deterrent against potential crimes aimed at the courts.

The Department also serves as a liaison between the law enforcement and public safety community, at the local, state and federal levels. These relationships facilitate the free flow of information between agencies, foster cooperation in handling common issues, and assist in an ongoing effort to enhance security and public safety in the State courts.

Office of Public Affairs

The Office of Public Affairs seeks to enhance the public's understanding of the Judiciary by sponsoring community outreach and public education programs. It also administers programs to keep court system employees informed about the courts' latest initiatives. The Office plans and coordinates a range of court events and employee recognition programs, including the Chief Judge's annual State of the Judiciary address and Law Day ceremony. It is also responsible for editing a variety of internal and external publications, managing the distribution of a large inventory of public information materials and interacting with government agencies.

In its effort to promote understanding of and confidence in the court system, the Office develops and implements programs to foster relationships and promote communication with the courts' various constituencies. The Office also responds to public information requests from schools, community groups, government agencies and individuals, and publishes *Jury Pool*

News, a quarterly newsletter informing the public of the latest court system initiatives, including jury reform.

In addition, the Office maintains a web site designed to acquaint students, educators and the public with their courts. The web site, which is located at: www.nycourts.gov/ip/community_outreach, features a virtual court tour and teaching tools. It was designed to meet the requirements of the State's social studies curriculum. The Office continues to collaborate with educators and legal experts in refining the site and is partnering with the bar to explore other educational programs and resources for students at varying grade levels.

OFFICE OF THE DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR JUSTICE INITIATIVES

The Office of the Deputy Chief Administrative Judge for Justice Initiatives provides Statewide oversight in developing and implementing programs to assure meaningful access to justice for all New York citizens. The Office seeks to eliminate existing disparities and barriers that directly impact the public's ability to access the justice system, focusing on four major areas: strengthening the delivery of legal services for poor and moderate income New Yorkers; increasing the provision of *pro bono* services for those unable to retain counsel; addressing the needs of self-represented litigants as they navigate the legal system; and expanding community education and outreach programs that inform the public about the courts.

At the forefront of the Office's efforts this year was the establishment of the Access to Justice Center, a court-sponsored entity whose primary purpose is to enhance the availability of legal services and, most critically, to promote new revenue streams to aid in this endeavor. The DCAJ-JI and the Center worked with the legal services community to devise a plan for restructuring the delivery of legal services in upstate New York, with the aim of developing a system that will be better able to provide a wide range of services in every region of the State. Implementation of that plan is underway.

In an effort to increase the level of *pro bono* activity, the Office hosted four *Pro Bono* Convocations around the State — in Albany,

Faye Elman



Hon. Juanita Bing Newton, Deputy Chief Administrative Judge for Justice Initiatives, addressing the Pro Bono Convocation held in New York City, while Chief Judge Judith S. Kaye looks on

Buffalo, Geneva and New York City. These highly successful events generated insightful discussion and concrete strategies for the expansion of *pro bono*. A detailed report with recommendations will be issued in spring 2003.

In order to facilitate the development of effective programs for the self-represented, the Office began surveying these litigants in two of the State's busiest venues — New York City's Family and Civil Courts. Preliminary findings suggest the need for greater availability of information. To that end, the Office is developing a virtual court assistance center, CourtHelp, that will be located at: www.nycourts.gov/courthelp/ and provide simple, easy to understand information about the courts, the law and legal referrals in one location on the web. Also being developed is a training program for court personnel to ensure that all appropriate court and legal information is provided to the public.

OFFICE OF THE ADMINISTRATIVE JUDGE FOR STATEWIDE MATRIMONIAL MATTERS

The Office of the Administrative Judge for Statewide Matrimonial Matters is responsible for the effective delivery of information and services relating to matrimonial matters to the Judiciary,

nonjudicial employees, matrimonial counsel and litigants. Matrimonial cases, which constitute a significant portion of the civil trial calendar, reflect the most serious social and economic issues of concern to society. The Office of the Administrative Judge for Statewide Matrimonial Matters coordinates and focuses the court system's efforts at managing the matrimonial litigation process. It routinely provides assistance and information to judicial and nonjudicial personnel with individualized training programs, via telephone, and by information references. It also meets with court personnel and leaders of local bar associations throughout the State.

The Office is responsible for monitoring the implementation of the Matrimonial Rules, which were adopted by the Administrative Board of the Courts in 1993 to govern case management and attorney-client relations in domestic relations matters. It also develops methods to assure consistent application of the Rules throughout the State. The Committee on Matrimonial Practice, an advisory group appointed by the Administrative Judge for Matrimonial Matters, reviews the need for new rules, modifications of existing rules and the development of practices to assist litigants and attorneys in the timely and efficient management of domestic relations matters. In 2003, the tenth anniversary of the adoption of

the Rules, the Office is planning to conduct a survey to evaluate their effect.

During the year, in response to the comments and suggestions received from litigants, attorneys and court personnel, the Office focused its efforts on a comprehensive revision of the Uniform Uncontested Divorce Forms, which were introduced several years ago in an effort to simplify the process of obtaining an uncontested divorce for self-represented and represented litigants. It also was instrumental in bringing the Northeast Regional Conference of the Association of Family and Conciliation Courts (AFCC) to New York City in March. As part of that Conference, the Office jointly planned and presented the AFCC program, "Symposium on High Conflict Families and the Courts."

Providing quality education to judicial and nonjudicial personnel on current legal issues, practices and case management is always a priority for the Office. This year, it presented the matrimonial law program at the annual judicial training seminars. In September, it arranged a hands-on training program for matrimonial judges in New York City and Long Island on the use of computer software to facilitate computations for support and related issues. In addition, the Office provides all judges newly assigned to matrimonial parts with guidelines on how to handle matrimonial cases, as well as sample forms and orders.

Office of the Inspector General

During the year, the UCS's three investigative offices—the Office of the Inspector General, the Office of the Special Inspector General for Fiduciary Appointments, and the Office of the Special Inspector General for Bias Matters—were merged and consolidated into the Office of the Inspector General. This Office now has Statewide jurisdiction to investigate claims of wrongdoing in the court system, monitor and

enforce the rules concerning fiduciary appointments, and investigate allegations of work-related bias involving court system employees.

In the area of fiduciary appointments, new rules were issued in December, as a result of reports which had been prepared by the Office of the Special Inspector General, in conjunction with the Office of Internal Affairs, and by the Commission on Fiduciary Appointments. Implementation of these new rules will begin in 2003. They include the following: mandatory training for placement on fiduciary lists, judicial authority for fiduciary appointments which are to be made (except in very limited circumstances) from the OCA list, and the creation of specialized fiduciary lists. In addition, re-registration will be required for all those on the fiduciary lists and procedures established to remove fiduciaries from the lists for good cause. The rules also provide for periodic audits of the fiduciary filing process and the designation of an ombudsperson to provide information and field complaints concerning the fiduciary process.

The Office of the Managing Inspector General for Fiduciary Appointments will continue to focus on ensuring compliance with the rules and investigating complaints about appointments. It will also remain involved with evaluating and making recommendations to enhance and improve the fiduciary appointment rules, as well as assist in the implementation of any rule changes.

The Inspector General's Office and the Managing Inspector General for Bias Matters will continue to investigate complaints from court employees and court users concerning a wide range of topics including infractions of disciplinary standards, criminal activities, conflicts of interest, incompetence and allegations of bias based upon race, sex, sexual orientation, age, marital status, disability, national origin or religion. The Office also participates in a variety of training programs for court employees including sexual harassment prevention and ethics.

CHAPTER 3

Highlights of Programs and Advisory Committees

Center for Court Innovation

The Center for Court Innovation is a unique public-private partnership that serves as the independent research and development arm of the New York State court system, promoting ongoing innovation and improving the judicial response to problems such as addiction, mental illness, domestic violence and juvenile delinquency.

The Center's primary role is to create demonstration projects that test new strategies and technologies in an effort to improve the way courts serve citizens. The goal is to use these projects as laboratories where new ideas can be field-tested and, if successful, implemented system-wide. The Center also shares its lessons with other states, helping keep New York at the cutting edge of court innovation nationally.

In recognition of its groundbreaking work, the Center was honored this year by the Ford Foundation and Harvard's John F. Kennedy School of Government, as one of the top 15 government innovations of the past 15 years.

Highlights from the Center's work in 2002 include:

Mental Health

Formally launched in October, the Brooklyn Mental Health Court is New York's first. Operating out of a dedicated courtroom in Kings County Supreme Court, the Court links defendants who have serious and persistent mental illnesses (such as schizophrenia and bipolar disorder) and who would ordinarily be jail- or prison-bound, to long-term treatment as an alternative to incarceration. The Court's ultimate goal is to test whether effective linkages between the criminal justice and mental health systems can improve treatment

compliance and reduce repeat offenses by defendants with mental illness, ultimately resulting in safer neighborhoods.

The Mental Health Court has an on-site clinical team that performs detailed psycho-social assessments of each defendant, allowing the judge to make better-informed decisions about defendants and craft individualized treatment plans that match each defendant to appropriate counseling and service programs. The Court holds defendants accountable, requiring them to return to Court regularly to meet with case managers and appear before the judge to report on their treatment progress. The Court adjusts treatment plans when necessary and has at its disposal an array of graduated sanctions and rewards to respond to progress and failure in treatment. Criminal charges are reduced or dismissed for defendants who complete all program requirements.

Youth Crime

The Juvenile Intervention Court opened its doors in Harlem in March. The Court – the nation's first community-based juvenile drug court – gives vulnerable, court-involved young people the structure and support they need to avoid delinquent behavior in the future.

The Court works with those under 16 who have been arrested for drug offenses and other non-violent charges. It links respondents to services in the community and closely monitors compliance. All of the court players – law guardians, the presentment agency, the judge, and treatment providers – work collaboratively to manage cases and respond to the needs of youth, families and the community. A service plan is developed, compliance is closely monitored, and participants who meet the Court's requirements have their charges reduced or dismissed.

The Court is distinguished by an innovative computer application that allows the judge and other key players to access up-to-date information about the progress of each participant.

Neighborhood Safety

In the fall, the Center created the New York City Public Safety Corps, a Citywide AmeriCorps program. Each of the Corps' 40 members are devoting one year to providing much-needed assistance to courts, police, prosecutors and other criminal justice professionals. In the process, the Safety Corps serves as a crucial bridge between government and citizens, engaging the public in improving public safety.

Domestic Violence

The Brooklyn Domestic Violence Court, which the Center helped establish in 1996, was recognized this year by the National Crime Prevention Council as one of 50 innovative strategies to prevent domestic violence. During the year, the Center worked to disseminate the lessons learned from the Brooklyn Domestic Violence Court, publishing a white paper that defines the key principles of domestic violence courts, convening a series of roundtables for judges interested in learning more about the topic, and providing technical assistance to jurisdictions across the State contemplating the creation of integrated domestic violence courts.



Jason Chopoorian

Members of the New York City Public Safety Corps, an Americorps program based in courthouses around New York City, participate in a community clean up

Members of the Citywide Corps work in local courthouses – including the Harlem Community Justice Center and the Midtown Community Court – where they assist judges, run youth programs and help supervise low-level offenders mandated to fulfill intermediate sanctions. Corps members also work in police stationhouses, allowing police officers to focus on pressing duties, and assist victims of domestic violence.

Future Projects

In the year ahead, the Center will continue to develop new experiments that improve the way courts do business, investigating issues such as school safety, the reintegration of ex-offenders into the community and quality-of-life crime. In addition, the Center will seek to move toward institutionalizing many of the ideas and strategies that over the past decade have proven successful at its operating

projects. Toward this goal, the Center will help staff the Statewide expansion of Integrated Domestic Violence Courts, create a plan to integrate the Brooklyn Treatment Court into the regular operations of Kings County Supreme Court, and lead an intensive Family Court planning process designed to spread problem-solving principles throughout New York City.

Court Drug Treatment Program

The Office of Court Drug Treatment Programs (OCDTP), under the leadership of Deputy Chief Administrative Judge Joseph J. Traficanti, Jr., is responsible for developing and overseeing a Statewide drug treatment court initiative to provide court-mandated substance abuse treatment to nonviolent drug-addicted offenders, as well as parents charged in Family Court child neglect cases, in an effort to end the relentless cycle of addiction and recidivism.

The mandate of the Office, which was established in 2000, is to ensure that within three years, all non-violent addicted offenders brought before the courts will be offered an opportunity for treatment. The Office is well on-track to meeting its three-year goals -- there are now 75 drug courts in operation: 57 in criminal courts, 14 in family courts and four focused solely on juveniles.

So far, there have been over 12,000 participants in the program and close to 4,000 graduates. Plans are underway to open an additional 95 courts next year. Screening for eligibility is expected to improve dramatically with the opening of an enhanced screening part in Brooklyn. This much-anticipated program will become a pilot for drug courts all across the State.

Each drug court in New York is locally-based and reflects the legal culture of the community. Financial support for this project comes from local communities, the court system and the federal government. The framework is provided by the intense training each team receives and the oversight provided through continuous evaluation and assistance from the OCDTP.

Research and evaluation of this project is critical to meeting the goal of Statewide

institutionalization. All treatment courts use a single data base, either the criminal or family model, which provides case management tools as well as the means to gather uniform statistical data. Through a federal grant, researchers at the Center for Court Innovation will release, in fall 2003, an evaluation reflecting this data. It is expected that the report will support at a Statewide level the success already measured locally in terms of numbers of successful graduates of the program and continuing low recidivism rates.

New York State Judicial Institute

The New York State Judicial Institute is the court system's judicial training and resource facility, which was created through a unique partnership between the New York Courts and Pace University Law School. The Institute, which will be located in a specially designed building on the campus of Pace Law School in White Plains, incorporates the functions of OCA's Office of Education and Training, as it provides a wide array of training and educational programs to judges, as well as to court attorneys and other nonjudicial personnel employed in the Unified Court System. It will also conduct education programs in conjunction with other branches of government and other state and federal judicial systems.

Hon. Robert M.G. Keating was appointed as the Dean of the Institute in July. Construction on the physical plant continued throughout the year, with completion anticipated in spring 2003.

During the year, the following programs were presented under the auspices of the Institute:

- Judges of the Court of Appeals and the Appellate Division of the Supreme Court attended a three-day program covering topics which included recent United States Supreme Court decisions, as well as current issues in bio-ethics, the American Presidency, and civil practice;
- Five two-day programs were held for trial-level judges. Judges, practicing attorneys, academics and experts presented lectures on topics including UCS initiatives, evidence, judicial skills, trial techniques,

jury selection, and substantive legal updates in civil, criminal, family and matrimonial law;

- Over 70 newly elected and newly appointed judges attended a five-day program designed to immerse these jurists in substantive legal topics, courtroom skills, case management and ethical concerns;
- Family Violence Task Force seminars were presented throughout the State, focusing on issues relating to orders of protection and child support;
- A two-day Legal Update program for Court Attorneys was offered in seven locations around the State. In addition to lectures on substantive legal topics, new training formats were introduced, including panel discussions on settlement skills with coverage of hypothetical cases, and the use of a taped lecture delivered by an expert, combined with live commentary.

As the physical structure of the Institute nears completion, planning and development continue for the implementation of innovations which will allow the Institute to improve the quality and delivery of educational services. The use of state-of-the-art technology will permit the transmission of programs to numerous sites via the Internet, thereby maximizing the delivery of educational opportunities to all concerned.

Nine-Eleven Summit: Courts in the Aftermath of September 11th

In September, the court system hosted the country's first national summit devoted to emergency planning and response issues confronting the judiciary, court administrators and their partners in the legal, governmental and private communities. Co-hosting the Summit were the National Center for State Courts, the Center for Judicial Studies at Pace University School of Law, the Center for Court Innovation and the court systems of Virginia, the District of Columbia, Pennsylvania and Oklahoma.

The twofold purpose of the Summit, which was held in lower Manhattan, overlooking the former site of the World Trade Center, was to begin a national dialogue on the challenges facing court systems as they strive to maintain the rule of law in the aftermath of a disaster, as well as how to be better prepared for such incidents in order to minimize any disruption of court business. The Summit drew an audience of nearly 300 state and federal judges, court administrators, attorneys, law enforcement professionals and academics from all over the country.

The two-day Summit featured 14 sessions addressing three major areas: emergency preparedness planning, policy decisions and practical applications; safety and security of

At the Nine-Eleven Summit, NYC Mayor Michael Bloomberg participated in a panel which included Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman



Kaye Ellman

court facilities, users and records; and court system responses to different emergency situations. Individual panels focused on issues such as internal and external communications, building relationships among the branches of government, and substantive legal issues related to emergency situations that are before the courts. They also addressed the practical steps to creating and implementing an effective emergency response plan.

Those who attended the Summit are continuing to call upon each other for ideas and support in addressing these difficult issues. Other jurisdictions have plans for similar emergency preparedness and planning workshops on a smaller, more regional scale. The web site established by the court system for the 9-11 Summit is being maintained as a resource and clearinghouse of information. New sample emergency plans and thoughtful scholarly works are submitted to this web site on a regular basis.

Looking ahead, the court system will be closely scrutinizing its own emergency preparedness planning program. The results of this review will be part of a major report on the current state of emergency preparedness planning by courts nationwide and its impact on maintaining the rule of law.

Committee to Promote Public Trust and Confidence in the Legal System

The Committee to Promote Public Trust and Confidence in the Legal System was established in 1998 to identify and implement initiatives to enhance public trust and confidence in the State's legal system. The Committee's goals are to ensure that there is a fair and just system by which individuals who have contact with the legal system are treated with respect and equality, as well as to help bring about a greater respect for the legal system. To this end, six local committees assist in implementing the State Committee's recommendations and in helping to make the courts more responsive to individual community needs.

In response to a finding by the State Committee that the public needs greater understanding and knowledge of the legal system, the UCS, through its Office of Public Affairs, has developed education and outreach

programs aimed at informing the public about the role and operation of the Judiciary. During the year, Public Affairs continued to develop and expand its web site (www.nycourts.gov/ip/community_outreach), which includes interactive educational materials for teachers and students on the courts and the Judiciary.

To address the Committee's concern for improved and ready access to information for court users, an information network was developed, called *Justiceworks*. In addition to a written informational brochure that outlines the various resources and services available to court users, *Justiceworks* operates a toll-free helpline to respond to questions about court policies, procedures and services.

The Committee also strives to ensure that court users and the public have the most accurate information. In order to enhance relations and increase understanding between the media and the courts, members of the Committee helped plan and participated in the first "Morning of Court-Press Communications." The program included presentations by federal and state judges on how the courts work, while a question and answer session offered an unparalleled opportunity for the news media to bring issues of practical concern to the attention of the Judiciary.

Commission on Public Access to Court Records

Chief Judge Judith S. Kaye established the Commission on Public Access to Court Records this year to examine the frequently competing interests of privacy and open access to information contained in court case files. It is evident that as court users and the public increasingly rely on electronic transactions and the Internet, there is a need to develop policies that balance the public's interest in open access with important competing interests in privacy and security. The development of an appropriate policy balance requires consideration of the interests and concerns of a wide variety of constituencies who use and rely on information from the courts, as well as a careful analysis of the practical implications of attempts to balance these interests. The Commission's goal is to help the court system develop such a policy.

In addition to holding regular monthly meetings to consider different perspectives on Internet access to court records, the Commission has also reviewed established court practices and policies related to electronic and paper access to records, as well as current New York and federal law. It has also considered a broad range of existing policies addressing the balance between public access to court and other records and the preservation of privacy and security interests.

The Commission has scheduled public hearings for May and June 2003, in Albany, New York City, and Buffalo to provide an opportunity for interested constituencies from across the State to share their views regarding the appropriate policy considerations and practical implications associated with placing case records on-line. The goal of the Commission is to develop recommendations for submission to the Chief Judge in the latter part of 2003. Further information about the Commission and its work may be found at its web site: www.nycourts.gov/publicaccess.

Lawyer Assistance Trust

The Lawyer Assistance Trust completed its first year of operation in 2002. The Trust was established to bring Statewide resources and awareness to the prevention and treatment of alcohol and substance abuse among attorneys, judges, law students and law school faculty. It is governed by a 21-member board and funded through State attorney registration fees.

Initiatives during the year included the development and placement of an insert in the attorney registration packet (distributed to all attorneys in the State), which provides an evaluation checklist and information on lawyer assistance services available throughout the State. In addition, an advertisement describing the availability of lawyer assistance services was published in the New York Law Journal. A template of that advertisement has been made available, at no cost, to local bar associations with lawyer assistance committees, to support their efforts. A brochure describing the Trust and its activities will soon be in circulation, and a quarterly newsletter is being distributed to targeted members of the legal community.

The Trust is administering a grant program, for which bar associations, bar foundations, lawyer assistance committees and law schools are eligible to apply. Projects and services eligible for funding include educational materials, conference and event expenses, existing and new substance abuse prevention programs, the enhancement of professionalism, and treatment-related expenses. So far, grants have been awarded to: the Monroe County Bar Association, to fund a print advertising campaign focused on alcohol and substance dependency; and the Erie County Bar Foundation, to both defray some of the costs associated with the Erie County Bar Association's Twelve-Step Weekend, and support certain treatment-related expenses.

Plans are underway for a conference, scheduled to take place in June 2003, to address alcohol and substance abuse problems at law schools. The Trust is also planning to develop brief videotapes on alcohol and substance dependency in the legal profession, to be presented by bar associations and continuing legal education providers around the State.

Guardian & Fiduciary Services

The Office of Guardianship Services was inaugurated in January 2001, in response to the findings of the Commission on Fiduciary Appointments and the Special Inspector General which identified the need for a unifying source of expertise in the area of guardianship practice. The Office serves as a resource for judges and court personnel. Its goal is to support and improve the standards of practice, thereby affording greater protection to those in need of guardianship protection. The mission of the Office is to provide education and training, establish uniform procedures and forms, and integrate the use of technology into the guardianship process.

The most far-reaching recommendation of the Commission and the Special Inspector General resulted in the enactment of the new Part 36 of the Rules of the Chief Judge which substantially revised the eligibility for and process of fiduciary appointments in New York. Thereafter, the Office of Guardianship Services was transformed into Guardian & Fiduciary Services ("GFS") with the added responsibility

of formulating the procedures to implement these new Rules. GFS worked to devise a new fiduciary application form, frame the outlines of the fiduciary database, write course curriculums, and create the GFS web site.

GFS reaches out on a State-wide level to the judiciary, court personnel, the public, attorneys, bar associations, and other related agencies and guardianship programs to provide input and leadership in the complex work of guardianship. During its first year, GFS provided assistance to and participated in numerous training programs presented throughout the State. Future projects include training for guardianship judges, court personnel and court examiners, a pilot project to encourage not-for-profit agencies to undertake guardianship work, more accessible and relevant training for lay guardians, and accurate State-wide data collection related to guardianship proceedings. The GFS web site located at www.nycourts.gov/ip/gfs is a valuable resource for guardian and fiduciary information for the courts and the public.

Advisory Committee on Judicial Ethics

The Advisory Committee on Judicial Ethics was established in 1987. Its statutory mandate is to issue advisory opinions to judges and justices of the Unified Court System “at the request of any one judge or justice concerning... issues related to ethical conduct or proper execution of judicial duties,” as well as “possible conflicts between private interests and official duties.” Judiciary Law §212(2)(l). The identity of the judge making a request remains confidential. Action taken by a judge in accordance with the findings or recommendations of the Advisory Committee contained in an advisory opinion is “presumed proper for the purpose of any subsequent investigation by the state commission on judicial conduct.” Judiciary Law §212(2)(l)(iv).

The Committee is comprised of 22 judges, active and retired, who serve or have served in venues throughout the State ranging from local courts to the Appellate Division. The members generally meet seven times a year to consider the written requests of judges, as well as non-

judge candidates for judicial office. The issues that generate the most questions concern disqualification, political activities, extra-judicial activities, and charitable fund-raising. To date, more than 2,000 opinions have been issued and are available in periodically published volumes, as well as at www.nycourts.gov/search/ethics_opinions.asp.

Franklin H. Williams Commission on Minorities

The Franklin H. Williams Judicial Commission on Minorities focuses on increasing diversity within the workforce, promoting respect and sensitivity among employees and serving as a conduit for concerns of minorities within the court system.

The Commission works to achieve these goals through regular dialogue and frequent meetings with the Chief Judge and her immediate administrative staff, as well as with administrative judges throughout the twelve judicial districts, various bar associations and the fraternal organizations within the courts. It also conducts an extensive outreach program to increase awareness of the courts in local communities and focus attention on job opportunities in the courts.

In addition to these ongoing programs, the Commission presented awards this year to a group of individuals from the court system and the legal profession who have demonstrated a commitment to promoting the goals of diversity.

The Commission also worked in support of a proposal for an alternative to the State bar examination, which would include a required internship program in the public sector. It also continued its efforts to increase promotional opportunities for minorities in order to increase diversity in the courts, working closely with its Buffalo Advisory Committee.

In addition, the Commission began planning for a leadership development conference to be held in 2003, to bring together minorities from all levels of the court system to assess the progress that has been achieved concerning racial matters since the issuance of the Commission’s 1991 study on the status of minorities in the courts. The information gained from that conference will serve as the basis of a report and action plan,

with recommendations for shaping a more culturally sensitive court system.

New York State Judicial Committee on Women in the Courts

The New York State Judicial Committee on Women in the Courts advocates on behalf of women litigants, attorneys and court employees. The Committee, which is composed of judges, court officials, bar association representatives and practicing attorneys, works together with court administrators and outside institutions to assure equal justice, equal treatment and equal opportunity for all, regardless of gender.

Within the court system, the Committee functions in a variety of advocacy roles. This year, for example, the Committee encouraged the incorporation of training on domestic violence into its orientation for newly-employed interpreters and helped plan the initial program. As in other years, the Committee encouraged and provided support to local gender bias and gender fairness committees, and assisted with programs in honor of Domestic Violence Awareness Month and Women's History Month.

In addition, the Committee published its 15th annual report entitled "Women in the Courts: A Work in Progress." The report offers detailed recommendations for enhancing equality, mirroring those made in 1986 by the New York Task Force on Women in the Courts (which led to the establishment of the present Committee). It also presents the results of a survey of lawyers and judges concerning the treatment of women in the courts, and summarizes the proceedings of the Committee's 15th Anniversary Conference. The report was selected as a Notable Document (Year 2002) by the New York Library Association Government Information Roundtable.

The Committee continued to play an active role in a number of education programs. As a co-sponsor with the Lawyers' Committee Against Domestic Violence and the Appellate Division, First Department, the Committee prepared course material and organized a two-day conference for lawyers who handle cases

involving domestic violence. The conference was entitled "Navigating Systems: Courts, Police, and Child Protection" and was held at Fordham Law School.

Permanent Judicial Commission on Justice for Children

The Permanent Judicial Commission on Justice for Children works to address the problems of children in New York whose lives and life chances are affected by the courts. The Commission develops initiatives to improve the outcome of the court process for these youngsters, to assess and improve State court child protective proceedings and assist children and their families obtain vital services. The Commission's projects seek to highlight the connection among healthy development, preventative services and permanency.

Highlights of the Commission's activities this year included the opening of two new Children's Centers--one in Rockland County Family Court and the other in the Red Hook Justice Center--bringing the total number of centers to 32. Collectively, the Centers provided drop-in childcare for over 51,000 children who accompanied their caregivers to court. A literacy program, launched by Chief Judge Kaye in 2000, continues to provide each child who visits a Center with a new book.

The Commission also continued its work on implementing the federally-funded Court Improvement Project (CIP), with the goal of improving the handling of child abuse and neglect cases in Family Court. As part of the CIP Project, the Commission conducted a number of seminars throughout the State focusing on best practices and implementation of the Adoption and Safe Families Act (ASFA). Model Courts located in Erie County and New York City continue to operate their best practice parts in order to expedite the court process and decrease the amount of time that children spend in foster care. Since the inception of the Expedited Adoptions Project in 1998, Erie County Family Court has finalized over 900 adoptions and decreased by 44% the number of children in foster care. In recognition of these outstanding efforts, Erie

County Family Court received one of 18 adoption excellence awards from the U. S. Department of Health and Human Services.

During the year, the Commission worked on The Babies Can't Wait Project to improve the prospects for healthy development and permanency for infants in foster care. The centerpiece of this effort was a series of five training sessions on infant health and development for court personnel, social workers and court-appointed guardians. This series was conducted in Bronx Family Court and repeated for Kings County Family Court, as well as approximately 400 senior workers from the Administration for Children's Services (ACS) and foster care agencies.

In collaboration with the Office of Alternative Dispute Resolution (ADR) and the New York State Office of Children and Family Services, the Commission will be co-funding a number of permanency mediation pilot projects across the State. Thus far, planning for the pilots is underway in Albany, Chemung, Monroe, Oneida and Westchester Counties.

Ethics Commission for the Unified Court System

In order to help preserve the integrity of governmental institutions, New York State requires that all public employees disclose potential areas of conflict of interest resulting from their private activities. Section 211(4) of the Judiciary Law requires all judges and justices, and officers and employees of the

courts who receive annual compensation at or above a specified statutory filing rate, or hold policy-making positions, to file annual statements of financial disclosure setting forth detailed personal and financial information. In 2002, the filing rate was \$70,851 and approximately 4,500 employees were required to file financial disclosure statements.

Since 1990, the Ethics Commission for the Unified Court System has been responsible for administering the distribution, collection, review and maintenance of financial disclosure statements. The powers and duties of the Commission are set forth in 22 NYCRR Part 40 and the procedures promulgated by the Commission are found at 22 NYCRR Part 7400. In 2002, the Commission was comprised of two judges, two law professors and one private practitioner.

Any employee who fails to timely file with the Commission is subject to disciplinary action by the Chief Administrative Judge or, in the case of a judge, by the Commission on Judicial Conduct. The Ethics Commission reviews each statement filed and requires individuals to submit revised statements if any deficiencies are found. The information contained in the statements is available for public inspection, except for the categories of value and amount, the names of unemancipated children and any information deleted by the Commission at the request of the filer.

Information regarding the Commission is now available on its web site, located at www.nycourts.gov/ip/ethics/.

CHAPTER 4

Legislation and Rules Revision

Legislation

The Office of Counsel is the principal representative of the Unified Court System in the legislative process. In this role, it is responsible for developing the Judiciary's legislative program and for providing the legislative and executive branches with analyses and recommendations concerning legislative measures that may have an impact on the courts and their administrative operations. It also serves a liaison function with bar association committees, judicial associations and other groups, public and private, with respect to changes in court-related statutory law.

Counsel's Office staffs the Chief Administrative Judge's Advisory Committees on Civil Practice, Criminal Law and Procedure, Family Law, Surrogate's Court, and the Local Courts (including New York City Criminal Court, New York City Civil Court, the District Courts, City Courts outside New York City, and the Town and Village Courts). Annually, these committees formulate legislative proposals in their respective areas of concern and expertise for submission to the Chief Administrative Judge. These recommendations are based upon each Committee's own studies, an examination of decisional law and proposals received from the bench and bar. Each Committee's proposals, when approved by the Chief Administrative Judge, are transmitted to the Legislature, in bill form, for sponsors and legislative consideration.

During the legislative session, the Advisory Committees also analyze other legislative proposals. Recommendations are submitted

to the Chief Administrative Judge, who, through Counsel, communicates with the Legislature and the Executive on such matters in the form of legislative memoranda and letters to the Governor's Counsel. In addition, the Committees develop forms and provide assistance in related matters.

Counsel's Office also is responsible for drafting legislative measures to implement recommendations made by the Chief Judge in the State of the Judiciary message, as well as measures required by the Unified Court System, including budget requests, adjustments in judicial compensation and measures to implement collective bargaining agreements negotiated with court employee unions pursuant to the Taylor Law. In addition, Counsel's Office analyzes other legislative measures that have potential impact on the administrative operation of the courts and makes recommendations thereon to the Legislature and the Executive.

In the discharge of its legislation-related duties, Counsel's Office consults frequently with legislators, professional staff of legislative committees, and the Governor's Counsel for the purposes of generating support for the Judiciary's legislative program and providing technical assistance in the development of court-related proposals initiated by the executive and legislative branches.

During the 2002 legislative session, Counsel's Office, with the assistance of the Chief Administrative Judge's Advisory Committees, prepared and submitted 24 new measures for legislative consideration. This was in addition to 122 measures that had been prepared by Counsel's Office during the 2001

session, and that remained active for legislative consideration in 2002. Of these combined 146 measures, 15 ultimately were enacted into law. Also during the 2002 session, Counsel's Office furnished Counsel to the Governor with analyses and recommendations on 31 measures awaiting executive action.

WORK OF THE ADVISORY COMMITTEES

Family Court Advisory and Rules Committee

During the 2002 legislative session, the Committee achieved enactment of the following five significant statutes that mark milestones in the areas of child welfare, child support and domestic violence:

and to file a petition in Family Court, pursuant to Family Court Act (FCA) §1055-a (Status of Children Freed for Adoption), within 30 days of the failure, except for good cause shown. In the absence of such a filing, the parent and/or law guardian, if any, have standing to file such a petition so long as the adoption has not yet occurred. It further requires the appointment of a law guardian in all conditional surrender cases and directs that the investigation and approval of a designated prospective adoptive parent is a condition precedent to the Family Court's approval of a surrender containing a condition of adoption by a designated individual (L. 2002, c. 76); effective date: Aug. 20, 2002.

- **Entry of Non-Family Intimate Partner Orders of Protection onto the Domestic Violence Registry:** This change in the law fills

*Members of the
Family Court
Advisory and
Rules Committee*



Teodora Emmanouss

- **Conditional Surrenders:** This legislation provides that, in case of a substantial failure of a material condition in a surrender instrument prior to finalization of an adoption, the authorized agency is required to notify the Family Court, the law guardian and, absent an express waiver in the surrender instrument, the birth parent, within 20 days of the failure,

a gap in the Statewide Automated Registry of Orders of Protection and Warrants that was created by the narrow statutory definition of "family" in the Criminal Procedure Law. It requires entry of orders of protection issued in criminal proceedings pursuant to CPL §530.13 (Protection of Victims of Crimes other than Family Offenses) against a family or household

member, as defined in Social Services Law §459-a, and requires courts of criminal jurisdiction, when issuing such orders, to make inquiry as to the existence of other orders of protection issued with respect to the parties. The definition of family under Social Services Law §459-a includes persons who are cohabiting or have cohabited, as well as other categories defined in the regulations of the New York State Office of Children and Family Services governing domestic violence shelters and non-residential programs (L.2002, c. 462); effective date: Nov. 20, 2002 (applicable to complaints filed on or after that date).

- **Technical Amendment to FCA §115 (Jurisdiction of Family Court); Repeal of FCA §6549 (Application to Modify Out-of-State Order or Judgment Fixing Custody):** In an effort to bring the statutory framework up-to-date, this legislation amended FCA §115 to correctly enumerate the types of proceedings over which the Family Court has jurisdiction. It amended subdivision (a) to add termination of parental rights proceedings brought on the grounds of parental mental illness, mental retardation and severe or repeated child abuse. Further, it amended subdivision (c) to add: adoption; guardianship; standby guardianship; surrender; foster care placement and review; commitment of guardianship and custody of children on the grounds of the death of, or abandonment by, parents; child custody; and interstate custody, support, paternity and placement. Finally, the statute repealed FCA §654, which required the Family Court to determine an application to modify an out-of-state custody determination upon a showing of a change in circumstances. This provision was inconsistent with the standard for modification under federal law. *See* L. 2001, c. 386 (L. 2002, c. 409); effective date: Aug. 13, 2002.

- **Orders of Medical Support in Child Support, Paternity and Matrimonial Proceedings:** Designed to reduce the number of children in Family and Supreme Court proceedings who are not covered by medical insurance, this new law specifically authorizes the courts to direct parents to apply to enroll children in the New York State "Child Health Plus" (CHIP) or Medicaid program, if other

health insurance is not available. The statute also clarifies that suspension of a driver's license and other enforcement remedies are available with respect to arrears, notwithstanding the absence of current support obligations (L. 2002, c. 624); effective date: Oct. 2, 2002 (medical support provisions); Nov. 1, 2002 (enforcement provisions).

- **Permanency Hearings: Children Freed for Adoption:** This legislation requires a permanency hearing held pursuant to FCA §1055-a (Status of Children Freed for Adoption) to be convened and completed immediately following, but not more than 60 days after, commitment of guardianship and custody of a child to an agency either as a result of a termination of parental rights proceeding, or approval of a surrender. All subsequent permanency petitions are required to be filed no later than six months after completion of the prior §1055-a hearing, and each hearing is required to be completed within 60 days of the filing of the petition. Additionally, technical amendments were made to FCA §1055(h) (Placement), to ensure continued foster care funding for freed children, and to Social Services Law §392 (Foster Care Status; Periodic Family Court Review), to remove obsolete references to proceedings now covered by FCA §1055-a (L. 2002, c. 663); effective date: December 3, 2002.

In addition to its legislative work, the Committee completed a comprehensive set of 102 new and revised official forms for use in Family Court proceedings, as well as revised orders of protection for use in criminal and matrimonial proceedings.

The following are among the Committee's more significant measures proposed for the 2003 legislative session:

(A) **"One Family/One Judge": Continuity of Court in Termination of Parental Rights, Surrender and Adoption Proceedings:** In order to help facilitate the placement of children who are in foster care into permanent homes, this measure would require an agency adoption proceeding to be heard before the

same court and judge that determined any earlier child protective, foster care, surrender or termination of parental rights proceeding. If filed in a different court, that court would be required to ascertain whether there had been prior child welfare litigation and, if so, to communicate with the judge who presided over the earlier litigation, and defer to that judge's determination as to the exercise of jurisdiction over the case.

(B) Clarification of Child Protective Permanency Hearing Provisions: This proposal would amend FCA §1055(b) to reorganize and simplify the issues to be determined at a permanency hearing in an abuse or neglect proceeding, by eliminating extraneous and duplicative provisions. It would also permit the simplification of uniform forms utilized in the *Adoption and Safe Families Act*, thus facilitating New York State's compliance with this important federal mandate.

(C) Amendments to the Uniform Child Custody Jurisdiction and Enforcement Act [UCCJEA]: This measure would fine-tune the recently enacted *Uniform Child Custody Jurisdiction and Enforcement Act* in New York State (Laws of 2001, c. 386) to restore the provision of the former *Uniform Child Custody Jurisdiction Act* that permitted the Supreme or Family Court to direct service of an order to show cause or a petition involving an out-of-state party by personal service, by mail with proof by a return receipt or delivery confirmation or by other means directed by the Court. It would also require telephone testimony or depositions to be recorded and preserved for transcription and would clarify those circumstances under which communication between courts is mandatory, and those in which inter-court communication is discretionary.

(D) Requirements for Expeditious Permanency Planning for Children in Foster Care: This measure would, among other things, amend FCA §1017(Placement of Children) to require child protective agencies, in abuse and neglect cases involving children removed from their homes, to conduct immediate investigations to locate

suitable non-custodial parents, not simply other relatives, with whom the children may reside. Information obtained in these investigations and in diligent searches for parents of abandoned infants pursuant to FCA §1055 would be recorded in the child's uniform case record.

(E) Violations of Orders of Protection in Family Court and Matrimonial Proceedings: This measure would delineate the civil enforcement process for orders of protection in Family and Supreme Courts to make clear that the violation procedures and consequences contained in Article 8 (Family Offense Proceedings) of the FCA apply to all orders of protection and temporary orders of protection issued in family offense, child support, paternity, child custody, visitation, divorce and other matrimonial proceedings. Wilful violators of temporary and final orders of protection in all categories of cases would be subject to the following sanctions: probation, restitution, visitation prohibition or requirement for supervision, firearms surrender, firearms license suspension or revocation and/or commitment to jail for up to six months.

Advisory Committee on Civil Practice

During the 2002 legislative session, the following six measures proposed by the Advisory Committee on Civil Practice were enacted into law:

- **Discovery and Production of Evidence** - - A revision of CPLR Sections 2305(b), 5120, 3122, and 3122-a to simplify discovery, and the production and certification at trial of non-party business records (L. 2002, c.575);

- **Admissibility of Electronic Business Records** - - Section 4518(a) of the CPLR (Business Records), dealing with the admissibility of reproduced documents, was amended to clarify the admissibility into evidence of "derivative" computerized business records—those records that may have been maintained solely as electronic records. (L.2002, c.136);



*Members of the
Advisory
Committee
on Civil Practice*

Teodora Ermanson

- **Form of Civil Judicial Proceedings** - - Section 103(c) of the CPLR was amended to make clear that upon finding it to be appropriate, the court has the authority to convert a motion into a special proceeding, and vice versa. (L.2002, c.593);

- **Form of Briefs and Appendices** - - Section 5229(a) of the CPLR was amended to confer upon the appellate courts the power to respond to changes in technology by giving them the authority to regulate the form of appellate briefs (L.2002, c.595);

- **Filing by Fax and Electronic Means** - - Sections 6 and 10 of chapter 367 of the Laws of 1999, and Section 11 of the Court of Claims Act (Filing, Service and Contents of Claim or Notice of Intention), were amended to extend and expand a pilot program permitting filing and service of selected cases to be done by fax or electronic means (L. 2002, c.110); and

- **When Proceeding Deemed Abandoned** - - Section 718(1) of the Real Property Tax Law was amended to fix a uniform date by which real estate tax review proceedings are deemed abandoned for residential or farm property (L.2002, c.186).

The following are among the Committee's more significant measures proposed for the 2003 legislative session:

(A) Enactment of a Comprehensive Court-Annexed Alternative Dispute Resolution Program

This measure would expand the use of alternative dispute resolution ("ADR") in New York State courts. It would provide immunity and legal representation for those who serve as mediators and other neutrals in court-annexed ADR programs (Judiciary Law §39-a, and Public Officers Law §17(1)-(Defense and Indemnification of State Officers and Employees)). It would also provide for confidentiality of all court-annexed mediations and neutral evaluations.

(B) Establishing a Time Frame for Expert Witness Disclosure

This measure would amend CPLR 3101(d)(1) (Scope of Disclosure) to provide a minimal deadline for expert disclosure (*i.e.*, 60 days before trial) - - a time frame that could be expanded to give earlier expert disclosure in certain commercial cases (see below), or as the need arises in other cases, if directed by the court.

(C) Expanding Expert Disclosure in Commercial Cases

This measure would amend CPLR 3101(d)(1) (Scope of Disclosure), to make possible, within court-enforced boundaries, more extensive expert discovery, particularly the taking of depositions under certain circumstances in commercial cases. Under this proposal, a "commercial action" would be defined so as to include the most common forms of such disputes, but exclude personal injury, wrongful death, matrimonial and certain other matters.

(D) Revision of the Contempt Provisions of the Judiciary Law

A joint proposal of the Advisory Committees on Civil Practice and Criminal Law and Procedure, this measure would substantially revise the law governing contempt. The measure would repeal Article 19 of the Judiciary Law in its entirety, replacing the largely outdated and often confusing language of that Article with more modern terminology, and eliminate provisions that are duplicative or have outlived their usefulness. At the same time, the measure would retain, albeit in a more comprehensible form, virtually all of the concepts traditionally associated with a court's exercise of that power, including "summary" contempt, the authority to impose fines and/or jail as sanctions for contemptuous conduct, and the authority to apply these sanctions either as a punishment for such conduct, or as a remedy where the conduct interferes with or otherwise prejudices the rights or remedies of a party to an action or proceeding.

Advisory Committee on Criminal Law and Procedure

In 2002, the Legislature enacted into law two bills proposed by the Advisory Committee on Criminal Law and Procedure:

- **CPL §310.20 – Jury Deliberation; Use of Exhibits and Other Material** - - was amended to expand subdivision two of that section to provide that whenever a court submits two or more counts charging offenses set forth in the same article of the law, it may include on the verdict sheet certain information to assist the

jury in distinguishing among the counts (L.2002, c.588).

- **CPL §450.90 – Appeal to Court of Appeals from Order of Intermediate Appellate Court; In What Cases Authorized** - - was amended to authorize an appeal to the Court of Appeals from an order granting or denying a motion to set aside an order of an intermediate appellate court on the ground of ineffective assistance or wrongful deprivation of appellate counsel (L.2002, c.498).

Also in 2002, OCA's Office of Court Research (OCR) completed work on an important phase of a joint initiative with the Committee, aimed at eliminating the recurring problem of employers who, in violation of Judiciary Law section 519, penalize or discharge an employee (or threaten to do so) because of absence or anticipated absence due to jury service. With the Committee's assistance, OCR has completed an informational pamphlet for employers and employees explaining their respective rights and obligations with regard to jury service under the Judiciary Law. The pamphlet will be distributed to major employers, employee associations, labor unions and other interested parties throughout the State in 2003.

The following are among the Committee's more significant legislative measures proposed for the 2003 legislative session:

(A) Impeachment of a Party's Own Witness with Proof of a Prior Contradictory Statement

In its current form, CPL section 60.35(1) (Rules of Evidence) permits a party in a criminal case to impeach its own witness only with a prior contradictory written statement signed by the witness, or with a prior contradictory oral statement under oath. This measure would expand this provision to allow a party to impeach its own witness by prior contradictory evidence consisting of "a statement written or signed by the witness, or an audiotaped, videotaped or other electronically recorded oral statement of such witness, or a transcript of an oral statement given under oath."

(B) Nonparty Motions to Quash a Subpoena

At present under the CPL, a nonparty whose motion to quash a subpoena *duces tecum* has been denied by the court does not have a right to appeal. Although the First and Second Departments have repeatedly recognized the right of a nonparty to take this type of appeal in a pending criminal prosecution, the Court of Appeals has not squarely addressed this issue. This measure would provide much needed uniformity and clarity in this area by creating a new CPL section 450.25 to expressly provide for an appeal.

(D) Written Instructions to Jurors Regarding Elements of the Offense Charged

Sections 310.20 (Jury Deliberation; Use of Exhibits and other Material) and 310.30 of the CPL specify the materials that may be provided by the court to a deliberating jury. It is not uncommon, especially in complex prosecutions involving numerous counts with multiple defendants, for a deliberating jury to ask the trial judge to provide it with written instructions on elements of some or all of the offenses submitted, and any related defenses. However, because there is nothing in existing



*Members of the
Advisory Committee
on Criminal Law
and Procedure*

(C) Compensation of Experts

While there may be limited circumstances in which a trial court in a criminal case may properly retain the services of an expert witness to testify at a trial or hearing, there is currently no provision in law to compensate the expert. This measure would fill this statutory gap by adding a new section 34-a to the Judiciary Law to clarify that, where a trial court engages the services of an expert in a criminal action or proceeding, the expert shall be entitled to receive, as a charge against the State, "reasonable compensation" for services.

CPL section 310.30 (Jury Deliberation; Request for Information) that would expressly permit a court to provide the jury with these materials, a trial judge who complies with such a request without first obtaining the defendant's consent may be committing reversible error. This measure would close this gap by amending CPL §310.30 to expressly permit a trial judge to respond to a deliberating jury's request for written instructions regarding the elements of one or more of the crimes or defenses submitted, by providing, without need for consent of the parties, the requested materials to the jury.

(E) Inclusion of Child Support Compliance Information in Pre-Sentence Investigation

This measure would amend CPL §390.30(1) (Scope of Pre-Sentence Investigation and Report) to expand the scope of a pre-sentence investigation to include an inquiry as to whether the defendant is subject to a child support order, as well as the extent of a defendant's compliance with that order. By requiring the collection of information about a defendant's outstanding child support obligations as part of the pre-sentence investigation process, this measure would allow the sentencing court to make a more informed decision about an appropriate sanction, especially where a sentence of probation or a conditional discharge is contemplated.

Surrogate's Court Advisory Committee

During the 2002 legislative session, the following measure that the Surrogate's Court Advisory Committee had proposed was adopted:

- Sections 711, 719, 2205, and 2206 of the Surrogate's Court Procedure Act (SCPA) were amended to combine the procedure for

compulsory accounting and other statutory remedies into a single procedural framework that will provide an expedient remedy when dealing with fiduciaries who fail to account (L.2002, c.457).

The following are among the Committee's more significant legislative measures proposed for the 2003 legislative session:

(A) Jury Trials and Lifetime Trusts

This measure would amend section 502 of the SCPA ("Trial by Jury; Waiver or Withdrawal") to make the right to a jury trial available in proceedings to contest the validity of a revocable lifetime trust, where the proceeding is commenced after the death of the creator and raises a controverted question of fact. In many cases, these trust instruments are executed contemporaneously with a will, thereby raising common issues of proof regarding capacity, undue influence, or fraud. At present, however, a statutory right to a jury trial is available only in the probate matter. This measure would help to avoid unnecessarily duplicative litigation.

(B) Harmonizing Inconsistent Class Distributions

This measure would amend section 3-3.3 of



Teodora Ermansons

*Members of the
Surrogate's Court
Advisory Committee*

the Estates, Powers and Trusts Law (EPTL) ("Disposition to Issue or Brothers or Sisters of Testator not to Lapse; Application to Class Dispositions") to eliminate an existing conflict between sections 3-3.3 and 2-1.2 with respect to the distribution of testamentary class gifts to the testator's issue, brothers, or sisters; the measure also would harmonize the results of these types of gifts with the results that would occur in intestacy under section 4-1.1. These "default" statutes would then reflect in a consistent manner the current legislative determination that most decedents would prefer that relatives of the same generation share equally.

(C) Nominated Fiduciary's Standing to File Objections

This measure would amend section 709 of the SCPA ("Objection to Grant of Letters or Appointment of Lifetime Trustee") to give a nominated co-fiduciary standing to object to the granting of letters to another fiduciary or to the appointment of a lifetime trustee. This would make the statute consistent with section 711, which allows a co-fiduciary, once appointed, to commence a removal proceeding.

(D) Standby Guardians

This measure would amend section 1726 of the SCPA ("Standby Guardians") to add a savings provision, comparable to will savings statutes, to provide that a standby guardian designation will be effective, even if made in another state, so long as it was validly executed in the jurisdiction where the parent or guardian was domiciled at the time of execution, or where it was executed, or where the parent or guardian is domiciled at the time it becomes effective. The measure would also provide that, in the case of conflicting designations, the most recent one would be given effect. In addition, various redundancies and inconsistencies in the present statute would be eliminated or clarified.

(E) Authorizing a Trust Grantor To Permit Trustees to Make Discretionary Distributions to Themselves as Beneficiaries

As modified by the Committee to incorporate changes suggested by members of the bar, this measure would amend section 10-10.1 of the EPTL ("Power to Distribute Principal or

Allocate Income; Restriction on Exercise") to allow the grantor of a trust, through an express provision in the trust instrument, to provide that a trustee may make discretionary distributions, of income or principal, to herself or himself as a beneficiary. The proposal would permit a distribution if the trust instrument so provides, or if the power is one to provide for the beneficiary's health, education, maintenance or support within the meaning of sections 2041 and 2514 of the Internal Revenue Code, or any other ascertainable standard.

Local Courts Advisory Committee

During the 2002 Legislative Session, a measure recommended by the Committee to update the language contained in section 401(c) of the New York City Civil Court Act was enacted into law.

The following are the Committee's more significant measures proposed for the 2003 legislative session:

(A) Electronic Filing of Traffic Tickets.

This measure would amend section 1.20 of the Criminal Procedure Law (Warrant of Arrest; When Executed), to clarify procedural measures related to the Department of Motor Vehicles' electronic traffic-ticketing program. This pilot program permits police officers to "write" tickets on a computer and transfer the pertinent information directly to a court computer, in place of filing a paper ticket. The traffic offender still receives a paper ticket, but the traffic court handles the ticket by computer.

The proposed amendment would specifically authorize, for purposes of this pilot program, the commencement of a criminal action by electronic means and expand the definition of "simplified traffic information" to include one written in electronic format.

(B) Issuance of a Summons in the NYC Civil Court, District Courts, and City Courts.

This measure would require the filing of a summons and the purchase of an index

*Members of the
Local Courts
Advisory Committee*



Teodora Ermanson

number before serving a summons issued by the New York City Civil Court, the District Courts or the City Courts. This change would help generate income during a time of fiscal constraint and also conserve clerks' time, while protecting defendants from untoward use of the court system.

(C) Venue of Enforcement Proceedings.

This measure would amend CPLR 5221 (When Enforcement Proceeding Commenced) to limit the venue of an enforcement proceeding which is based on an underlying consumer credit transaction. In 1973, as part of the Governor's Consumer Protection Program, CPLR 503 and the New York City Civil Court Act §301(a) were amended to provide that suits arising out of consumer credit transactions must be brought in either the county where the buyer resides, or the county where the purchase was made. The main purpose of the amendments was "to protect consumers by limiting the places where a creditor can bring suit arising out of a consumer credit transaction." The amendments precluded the laying of venue in the plaintiff's county in consumer credit transactions.

This amendment would resolve the apparent conflict between the venue provisions of the New York City Civil Court Act and the CPLR, which at present protect the consumer's venue interests with respect to obtaining the underlying judgment, and the enforcement proceedings of the CPLR—which then permits the creditor to seek enforcement in any county in the City of New York, which would implicate the same travel burdens as at issue in the underlying action.

(D) Simplified Turnover Proceeding.

This proposal is in response to the often-heard complaint that obtaining a judgment in Small Claims Court is an exercise in futility because the judgment cannot be enforced absent time-consuming and expensive procedures held in the regular part of the Court. The proposal creates a pilot program targeting the specific problem that typically arises when a judgment debtor has assets in a joint bank account—assets that belong to both the judgment debtor and a non-debtor. This proposal would authorize a special proceeding in certain limited circumstances within the Small Claims Part of the New York City Civil Court without the cost of another filing fee and allow

the Court to hold a hearing to determine the possessory interests of each person, including the judgment debtor, to any bank accounts at issue.

(E) Increasing the Threshold Levels of Damages for Criminal Mischief set forth in Sections 145.05 and 145.10 of the Penal Law.

This measure seeks to increase the threshold level for the offenses of criminal mischief in the third degree (a class E felony) and criminal mischief in the second degree (a class D Felony). Under current law, a person who damages another person's property in an amount exceeding \$250 is guilty of criminal mischief in the third degree (a class E felony), and a person who damages another's property in an amount exceeding \$1,500 is guilty of criminal mischief in the second degree (a class D felony). These monetary levels were last amended in 1971 and do not reflect the reality of current costs. This measure seeks to raise the threshold level of damages for criminal mischief - in the third degree to \$1000, and in the second degree, to \$3,000.

Measures Enacted into Law in 2002

Chapter 74 (Assembly bill 7297). Amends section 401(c) of the NYC Civil Court Act to require that the "original," and not the "ribbon copy," of a petition in a summary proceeding be filed with the clerk of the court at the time the notice of petition is issued. Eff. 5/21/02.

Chapter 76 (Assembly bill 8562). Amends provisions of the Family Court Act and the Social Services Law in relation to conditional surrenders of children. Eff. 8/19/02.

Chapter 110 (Senate bill 7574-B). Amends chapter 367 of the Laws of 1999 to extend until July 1, 2003 the authority for a pilot program in the use of filing by electronic means or by facsimile transmission in civil actions and proceedings. Eff. 6/28/02.

Chapter 136 (Senate bill 3534-B). Amends CPLR 4518 relating to the admissibility into evidence of computer-generated business records. Eff. 7/23/02.

Chapter 186 (Assembly bill 8455). Amends section 718 of the Real Property Tax Law to modify the four-year abandonment rule for judicial review of property tax assessment so that the time period runs from the statutory deadline for commencement of such judicial review (in New York City, October 24th), and not from the actual date of commencement of judicial review proceedings. Eff. 7/23/02.

Chapter 302 (Senate bill 6508). Amends section 521 of the Judiciary Law and sections 2014 and 1306 of the Uniform Justice Court Act to provide for State assumption of the cost of juror compensation in the Town and Village Justice Courts; and, over a period of three years beginning in State FY 2003-04, to increase the amount of that compensation so that it equals that paid jurors in other trial courts of the State (*i.e.*, all jurors in Justice Courts serving during the 2003-04 FY will receive \$10 *per diem*; during the 2004-05 FY, \$15 *per diem*; during the 2005-06 FY, \$25 *per diem*; and during the 2006-07 FY and thereafter, \$40 *per diem*). Eff. 4/1/03.

Chapter 409 (Assembly bill 10662). Amends provisions of the Family Court Act to update its recitation of Family Court jurisdiction and repeals section 654 thereof. Eff. 8/13/02.

Chapter 457 (Senate bill 6934). Amends provisions of the Surrogate's Court Procedure Act to combine the procedure for compulsory accounting and other statutory remedies into a single procedural framework to provide an expedient remedy when dealing with fiduciaries who fail to account. Eff. 11/1/02.

Chapter 462 (Senate bill 7479). Amends section 530.13 of the Criminal Procedure Law and section 221-a of the Executive Law to require entry onto the Statewide Registry of Orders of Protection of orders issued against intimate partners pursuant to section 530.13. Eff. 11/18/02.

Chapter 498 (Senate bill 2835). Amends section 450.90(1) of the Criminal Procedure Law to authorize an appeal to the Court of Appeals from an order granting or denying a

motion to set aside an order of an intermediate appellate court on the ground of ineffective assistance or wrongful deprivation of appellate counsel. Eff. 11/1/02.

Chapter 575 (Assembly bill 8384-B). Amends the CPLR to simplify methods for obtaining discovery of documents, particularly routine business records, from non-party witnesses and procuring their admission into evidence. Eff. 9/1/03.

Chapter 588 (Assembly bill 11194). Amends section 310.20(2) of the Criminal Procedure Law to provide that, whenever a court submits two or more counts charging offenses set forth in the same article of law, it may include on the verdict sheet relevant information to assist the jury in distinguishing among the counts. Eff. 9/24/02.

Chapter 595 (Assembly bill 11678). Amends rule 5529(a) of the CPLR to confer upon appellate courts the authority to regulate the form of appellate briefs through court rules. Eff. 1/1/03.

Chapter 624 (Assembly bill 11197-A). Amends provisions of the Family Court Act and the Domestic Relations Law to insure the provision of medical support for children. Eff. 10/2/02.

Chapter 663 (Senate bill 7027). Amends the Family Court Act and Social Services Law in relation to dispositional and permanency hearings in termination of parental rights proceedings and reviews of children freed for adoption. Eff. 12/3/02

Measures Newly Introduced in the 2002 Legislative Session or Carried Over from the 2001 Legislative Session and Not Enacted Into Law

Senate 3431. This measure would amend section 73 of the Domestic Relations Law to extend the recognition of legitimacy to children who are born to married couples by means of assisted reproduction, such as *in vitro* fertilization.

Senate 2937-A/Assembly 10660. This measure would amend section 10-10.1 of the Estates, Powers and Trusts Law to permit the grantor of a trust, by express provision in the trust instrument, to provide that a trustee may make discretionary distributions, of income or principal, to herself or himself as a beneficiary.

Senate 5513-A/Assembly 8794. This measure would amend section 2-1.11(c) of the Estates, Powers and Trusts Law, which regulates the renunciation of property interests created under a will or trust for the benefit of infants, incompetents, conservatees and deceased persons.

Senate 4395/Assembly 8774. This measure would amend section 117 of the Domestic Relations Law and section 2-1.3(a)(1) of the Estates, Powers and Trusts Law to ensure that it is clear that an adoptive child is not to be penalized by losing either inheritance rights from their birth parents under section 4-1.1 of the Estates, Powers and Trusts Law, or the right to receive a lifetime or testamentary disposition from their birth family as a member of a class under section 2-1.3 of the Estates, Powers and Trusts Law where the adoptive child maintains a relationship with the birth family after the entry of the adoption order as a result of the child continuing to reside with the birth parent.

Senate 2939/Assembly 9859. This measure would add a new section 4-1.7 to the Estates, Powers and Trusts Law to disqualify a person who holds property as a tenant by the entirety with a spouse from receiving any share in such property or monies derived therefrom where he or she is convicted of murder in the first or second degree, or manslaughter in the first or second degree, of their spouse.

Senate 6506/Assembly 10661. This measure would amend section 709 of the Surrogate's Court Procedure Act to provide that a nominated co-fiduciary has standing to file objections to the grant of letters to a co-fiduciary.

Senate 7026/Assembly 10659. This measure would add two significant provisions to section 1726 of the Surrogate's Court Procedure Act: (1) it would provide that a

designation of standby guardian be effective even if made in another state, as long as certain criteria are met, and (2) address the problem of conflicting designations, including those made in a testamentary instrument, by providing that the most recent designation be given effect.

Senate 6507. This measure would amend section 5-1.2(a) of the Estates, Powers and Trusts Law to provide for the disqualification of a person as the decedent's surviving spouse if the decedent and the survivor had lived separate and apart for a period of at least one year prior to the decedent's death and the total time that they lived separate and apart exceeded the total time that they cohabited as spouses.

Senate 3532. This measure would amend the CPLR to provide that, if a party's pre-trial written offer to settle a non-matrimonial civil claim is rejected by the claimant, and the claimant later fails to obtain a more favorable judgment, the claimant forfeits costs and interest from the time of the offer to verdict; and to provide for the prejudgment accrual of interest in a personal injury action.

Senate 4149/Assembly 8395. This measure would amend section 360.20 of the Criminal Procedure Law in relation to the process by which a local criminal court empanels jurors during *voir dire*.

Senate 4093. This measure would add a new subdivision 1-b to section 270.15 of the Criminal Procedure Law to permit a criminal court to issue an order precluding disclosure of jurors' and prospective jurors' names and addresses where the court determines that there is a likelihood that one or more jurors or prospective jurors will be subject to bribery, tampering, injury, harassment or intimidation.

Senate 4328/Assembly 8402. This measure would amend Article 41 of the CPLR and Articles 270 and 340 of the Criminal Procedure Law to revise the current procedure for selecting trial jurors in civil and criminal cases, respectively.

Assembly 7903. This measure would amend section 521(a) of the Judiciary Law to

change the daily rate of compensation for jurors who render protracted service.

Senate 7510. This measure would amend Article 6 of the Constitution to consolidate New York's nine major trial courts into three courts: a Supreme Court, a Surrogate's Court and a District Court.

Senate 3507/Assembly 8399. This measure would amend sections 10.20 and 10.30 and provisions of Articles 195 and 200 of the Criminal Procedure Law to authorize the filing of a superior court information in the New York City Criminal Court, District Courts and City Courts, and permit those courts to accept a plea to that instrument (and sentence defendant thereon).

Senate 4147/Assembly 8337. This measure would amend provisions of the State Finance Law to make a technical change in relation to the manner in which State assistance monies due county and city governments under the Court Facilities Act of 1987 (as amended) are paid from the Court Facilities Incentive Aid Fund.

Senate 4091. This measure would amend section 849-d(2) of the Judiciary Law to increase the amount of the basic grant under the Community Dispute Resolution Centers Program to a maximum of \$40,000 per county served by a dispute resolution center.

Senate 4092/Assembly 8656. This measure would amend section 47.03 of the Mental Hygiene Law to codify jurisdiction for the Mental Hygiene Legal Service to provide its services to mentally-disabled individuals not residing in traditional facilities in matters pertaining to their care and treatment.

Senate 7439/Assembly 7904-A. This measure would amend section 39(2) of the Judiciary Law and sections 94-a(2)(3) and 94-b(2)(3) of the State Finance Law to insure that monies due the New York City County Clerks' Operations Offset Fund and the Judiciary Data Processing Offset Fund are regularly deposited therein throughout the course of the year.

Senate 5128. This measure would amend section 370 of the General Municipal Law and sections 155, 245 and 1809 of the Vehicle and Traffic Law to permit, but not require, the City of Syracuse to divest the Syracuse City Court of jurisdiction over traffic and/or parking violations.

Senate 7438/Assembly 8555-A. This measure would amend section 39(2) of the Judiciary Law to cure a flaw in a 1995 statute by which the State fully divested itself of responsibility for the non-jury related costs in the operation of the County Clerks' offices in New York City.

Assembly 7910. This measure would amend section 1811-A of the New York City Civil Court Act, the Uniform District Court Act and the Uniform City Court Act to require courts to send a notice of judgment to the judgment creditor and to the judgment debtor in commercial claims actions; and amend sections 1811(b)(1) and 1812(a) of these Acts to eliminate language indicating that a judgment debtor has 30 days to pay a small claims judgment.

Assembly 11514. This measure would amend sections 203 and 209 of the Uniform District Court Act and the Uniform City Court Act to provide District and City Courts, respectively, with additional equity jurisdiction so as to enhance their ability to handle landlord and tenant disputes outside New York City.

Senate 3503/Assembly 9067. This measure would amend section 1806-a of the Vehicle and Traffic Law to authorize grounds for vacatur of a default judgment entered against a person charged with a traffic infraction.

Senate 2934/Assembly 7298. This measure would amend section 1803-A of the New York City Civil Court Act, the Uniform City Court Act and the Uniform District Court Act to make it consistent with the filing fee provisions for regular small claims by creating a two-tiered filing fee based on the amount of the claim and by eliminating the requirement that a claimant pay the cost of mailings when commencing a commercial claim.

Senate 7223/Assembly 8336. This measure would amend section 1808 of the New York City Civil Court Act and the Uniform Court Acts to harmonize the statutory provision with case law and make it clear that a small claims judgment has no collateral estoppel or "issue preclusion" effect in a subsequent proceeding, so as to protect the parties from any unforeseen consequences of the small claims proceeding.

Senate 3504/Assembly 9066. This measure would amend section 1806-a of the Vehicle and Traffic Law to authorize a court to use regular first class mail to notify a defendant who fails to answer a notice of appearance, a summons or other notice of violation charging the defendant with a traffic infraction involving parking, stopping or standing.

Senate 3536-B/Assembly 2079. This measure would add a new section 3115(e) to the CPLR to establish reasonable and clear limits on the practice of directing a witness not to answer a question; and amend section 3115 of the CPLR to prohibit an attorney from interrupting a deposition to communicate with the deponent, except under narrow circumstances.

Senate 4242. This measure would amend section 3101(d)(1) of the CPLR to provide a deadline for expert disclosure (*i.e.*, 60 days before trial)—a time frame that could be expanded to give earlier expert disclosure in certain commercial cases, or as the need arises in other cases, if directed by the court.

Senate 3483. This measure would amend section 3101(d) of the CPLR to make possible more extensive expert discovery under certain circumstances in a limited class of cases.

Senate 3449. This measure would amend section 3101(d)(1)(iii) of the CPLR to provide that a party may, without court order, take the testimony by videotape or otherwise of his or her own treating physician, dentist or podiatrist or retained medical expert for the purpose of preserving the deponent's testimony for use at trial.

Senate 4596. This measure would create a statutory parent-child privilege in civil, criminal and family cases.

Senate 3494. This measure would repeal section 4519 of the CPLR, known as the “Deadman’s Statute,” leaving to courts and juries the responsibility of sifting through all material and pertinent evidence to identify and screen out that which is fraudulent and untrue.

Senate 3530/Assembly 8530. This measure would adopt a learned treatise exception to New York’s Hearsay Rule.

Senate 3538. This measure would repeal Articles 50-A and 50-B of the CPLR to restore the common law rule that the plaintiff receive his or her entire damages inclusive of future damages in a single, lump sum—with the defendant, in an appropriate case, entitled to have the jury instructed that it should discount projected future damages to present value to fairly account for the investment potential of the lump sum.

Senate 3537. This measure would amend sections 1207, 1208 and 5003-a of the CPLR and section 2220 of the Surrogate’s Court Procedure Act to permit interest to accrue where there is a delay in a proposed settlement of claims by an infant, incompetent, or in a wrongful death action caused by the need for court approval.

Senate 3574/Assembly 7342. This measure would add a new section 1405 to the CPLR to permit a plaintiff in a tort case to recover directly against a third-party defendant found liable to the defendant/third-party plaintiff, where the latter is insolvent.

Senate 3975/Assembly 7346. This measure would amend section 15-108 of the General Obligations Law to require that, where some but not all of the multiple parties to a lawsuit settle, any non-settlor must elect among the various options bearing upon its liability *before*, rather than after, trial.

Senate 3533/Assembly 8405. This measure would amend sections 1603 and 3018(b) of the CPLR to require that reliance on Article 16 be pleaded as an affirmative defense.

Senate 3973. This measure would amend section 2-b of the Judiciary Law to permit extra-state service of a subpoena upon a party so that New York courts can effectively exercise the full constitutional measure of their jurisdiction.

Senate 3670-A/Assembly 7032-A. This measure would amend section 16-116 of the Election Law to require that a proceeding brought pursuant to Article 16 be commenced by service of the initial papers upon the respondents and that the papers be filed within two days of service on the first respondent served.

Senate 7424. This measure would repeal Article 19 of the Judiciary Law to reform the law of contempt.

Senate 3487. This measure would amend Article 78 of the CPLR to permit the respondent in an Article 78 proceeding to demand that petitioner serve the papers on which it will rely before the respondent answers or moves.

Senate 3486/Assembly 9151. This measure would amend section 3211(e) of the CPLR to repeal the requirement that a party who defends a motion to dismiss a claim or a defense include a request for leave to replead in their opposing papers, if the movant intends to seek such relief.

Senate 3482. This measure would amend section 3215 of the CPLR, governing default judgments, to clarify the options available to a plaintiff when, in a case involving multiple defendants, one party defaults and one or more answers.

Senate 3535. This measure would modernize Rules 3216 and 3404 of the CPLR to permit the court to remove inactive or abandoned cases from its inventory.

Senate 3974. This measure would amend several Consolidated and Unconsolidated Laws to clarify the method by which interest may be calculated on judgments against certain governmental entities for which a specific interest rate has not been fixed by statute.

Senate 3495-A. This measure would add a new rule 4510-a to the CPLR to provide for

confidentiality in certain court-annexed ADR proceedings; and amend section 39 of the Judiciary Law to provide immunity for those who serve as mediators and other neutrals in court-annexed ADR programs.

Senate 3448/Assembly 8394. This measure would amend Article 240 and other sections of the Criminal Procedure Law to effect broad reform of discovery in criminal proceedings.

Senate 3440. This measure would amend section 60.43 of the Criminal Procedure Law to provide that the same protections against the admissibility of evidence of a victim's sexual conduct in a non-sex criminal case apply also to a witness in such a case.

Senate 3666. This measure would amend section 240.20 of the Criminal Procedure Law and section 87(2) of the Public Officers Law to insure that the provisions of Article 240 of the Criminal Procedure Law regulate criminal discovery of law enforcement records in pending cases and that those provisions are not understood to yield to contrary provisions of New York's Freedom of Information Law.

Assembly 8720. This measure would amend section 240.20(1)(f) of the Criminal Procedure Law to provide that any property seized pursuant to the execution of a search warrant relating to the criminal action or proceeding, and the inventory or return of such property, be discoverable by the defendant; and add a new paragraph (i) to section 240.20(1) providing that the search warrant, the search warrant application and the documents or transcript of any testimony or other oral communication offered in support of the search warrant application be discoverable by the defendant, except to the extent such material or information is protected from disclosure by a court order.

Senate 3505/Assembly 8407. This measure would add a new section 60.41 to the Criminal Procedure Law to provide a trial court with discretion, in certain circumstances, to permit the admission of evidence of a person's violent conduct.

Senate 2968/Assembly 8773. This measure would amend section 420.05 of the Criminal Procedure Law to clarify that criminal courts may accept credit cards and other similar devices as payment for fines, crime victim assistance fees and mandatory surcharges.

Senate 4326/Assembly 8533. This measure would amend section 530.70(2)(b) of the Criminal Procedure Law to permit all State-paid uniformed court officers in Dutchess, Orange, Putnam, Rockland, Saratoga, Schenectady, Sullivan, Ulster, Warren and Washington Counties and in the Cities of Schenectady and Troy to execute bench warrants.

Senate 3511. This measure would add a new section 180.25 to the Criminal Procedure Law to allow a superior court to remove a felony action from a local criminal court to expedite a defendant's plea to the felony charge.

Senate 3493. This measure would amend section 340.40(2) of the Criminal Procedure Law to create additional exceptions to the jury trial requirement in the New York City Criminal Court and in certain other local criminal courts.

Senate 4148. This measure would amend section 530.20 of the Criminal Procedure Law to authorize a local criminal court to set bail for a defendant charged with certain class E felonies without first consulting with the District Attorney.

Senate 2834/Assembly 11195. This measure would amend section 250.10(2) of the Criminal Procedure Law to require that the notice filed by a defendant under that section specify the type of psychiatric defense or affirmative defense upon which the defendant intends to rely at trial, as well as the nature of the alleged psychiatric malady that forms the basis of such defense or affirmative defense and its relationship to the proffered defense.

Senate 3442/Assembly 8389. This measure would add a new subdivision seven to section 530.70 of the Criminal Procedure Law to provide that a bench warrant issued by a local criminal court, in a case in which the defendant is held for the action of the grand

jury or in which the local criminal court is divested of jurisdiction by the filing of an indictment in the superior court, shall remain effective in most cases until the superior court issues its own bench warrant.

Senate 3779/Assembly 8385. This measure would amend section 730.30(2) of the Criminal Procedure Law to provide that, when each psychiatric examiner concludes that the defendant is not an incapacitated person, the court may, but is not required to, conduct a hearing on the defendant's mental capacity.

Senate 3506/Assembly 8400. This measure would amend section 300.50(2) of the Criminal Procedure Law to provide that a request to submit a lesser included offense to the jury be made prior to the summations.

Senate 4143. This measure would eliminate the sunset date and give permanent status to Article 182 of the Criminal Procedure Law, relating to use of audio-visual technology in the conduct of arraignments in criminal court.

Senate 3446/Assembly 8390. This measure would revise several provisions of the Criminal Procedure Law to establish a procedure for amending an indictment, prior to retrial, to charge lesser included offenses of counts that have been disposed of under such circumstances as to preclude defendant's retrial thereon.

Senate 3441/Assembly 8393. This measure would amend section 210.20(1)(c) of the Criminal Procedure Law to provide that an order dismissing an indictment for failure to notify defendant of the right to testify before the grand jury shall be conditioned upon defendant's testifying before the grand jury to which the charges are to be submitted or resubmitted.

Senate 3445/Assembly 8391. This measure would amend section 180.80 of the Criminal Procedure Law to provide that whenever a defendant in custody files notice requesting the right to testify before the grand jury, the court in its discretion may extend by up to 48 hours the time period within which the grand jury must indict such a defendant.

Senate 3491/Assembly 8398. This measure would add a new subdivision 2-a to section 30.30 of the Criminal Procedure Law to: (1) provide that a court may inquire into a prosecutor's statement of readiness and nullify such statement if the court determines that the prosecution is not in fact ready for trial; (2) add a new paragraph (d) to section 30.30(3) to require that, unless good cause is shown, a motion to dismiss under section 30.30 must be made at least 15 days before commencement of trial and express authority is provided for the trial judge to reserve decision on the motion until after the trial is completed and the verdict is rendered; and (3) add a new subdivision 4-a to section 30.30 requiring the court, whenever it is practicable to do so, to rule at each court appearance whether the adjournment period following such appearance is to be included or excluded in computing the time within which the prosecution must be ready for trial under section 30.30.

Senate 3492/Assembly 8397. This measure would amend the speedy trial statute and other provisions of the Criminal Procedure Law to accord criminal courts greater authority to fix and enforce expeditious schedules for hearings and trials, and to minimize opportunities for delay by requiring earlier disclosure of *Rosario* material.

Senate 3443/Assembly 11370. This measure would amend paragraphs (c) and (d) of section 30.30(5) of the Criminal Procedure Law to provide that, when a criminal action is commenced by the filing of a felony complaint that is replaced by an indictment in which the highest offense charged is a misdemeanor, the period of time within which the prosecution must be ready for trial is the statutory period applicable to misdemeanor offenses, not the six-month period applicable to felony offenses.

Senate 3531. This measure would amend subdivision 6 of section 60.35 of the Penal Law to clarify its provisions exempting defendants who have paid restitution or made reparations from having to pay a mandatory surcharge and a crime victim assistance fee.

Senate 3508/Assembly 8722. This measure would amend sections 100.20 and 100.25 of the Criminal Procedure Law to entitle

a defendant charged by simplified information with a misdemeanor to a supporting deposition that contains non-hearsay allegations which establish, if true, every element of the offense charged and the defendant's commission thereof.

Senate 2831/Assembly 8396. This measure would amend section 120.20 of the Criminal Procedure Law to preclude a criminal court from issuing a warrant of arrest based on any simplified information.

Senate 3509/Assembly 8401. This measure would amend section 440.10 of the Criminal Procedure Law to authorize a court to entertain an application to vacate a plea of guilty and sentence imposed when a corporate defendant fails to appear.

Senate 2833/Assembly 8724. This measure would amend section 690.35(3) of the Criminal Procedure Law to require that an application for a search warrant disclose all prior denials of the same or a similar application, as well as any failure to issue a search warrant based on the same or a similar application, by a different judge, if known to the applicant.

Senate 6509. This measure would add a new section 215.18 to the Penal Law to establish the crime of "Intimidating a Victim or Witness in the Fourth Degree."

Senate 3439. This measure would amend section 30.10 of the Criminal Procedure Law to provide that, in calculating the statute of limitations period for commencement of a prosecution for bail jumping arising from the defendant's alleged failure to appear in connection with a felony charge, any period following the commission of the offense where the defendant's whereabouts are "continuously unknown" shall not be included, regardless of whether the defendant's whereabouts might have been ascertained by the exercise of "reasonable diligence."

Senate 3490/Assembly 8531. This measure would add a new section 180.85 to the Criminal Procedure Law to provide that, after arraigning a defendant upon a felony complaint, the local or superior court before

which the action is pending, on motion of either party, may dismiss the felony complaint on the ground that the defendant has been denied the right to a speedy trial, pursuant to section 30.30.

Senate 3488/Assembly 8386. This measure would amend section 410.91 of the Criminal Procedure Law to eliminate the requirement that the prosecution consent before a court may sentence a defendant to parole supervision.

Senate 3444/Assembly 8392. This measure would amend section 30.30 of the Criminal Procedure Law to exclude certain serious crimes from the statutory mandate that a defendant in custody pending trial be released if the prosecution is not ready for trial within 90 days of the commitment of the defendant to such custody, with provision for extension of the 90-day period to 120 days when the defendant is charged with an offense that, upon conviction, would result in being sentenced as a second violent felony offender.

Senate 5199/Assembly 7754. This measure would amend sections 1029 and 1056 of the Family Court Act and section 221-a of the Executive Law to require that information regarding orders of protection and related warrants in child protective proceedings brought pursuant to Article 10 of the Family Court Act be included on the Statewide Registry.

Senate 3977. This measure would add a new section 657 to the Family Court Act and a new section 242 to the Domestic Relations Law setting forth the powers of the courts and procedures to be followed in the event of violations of custody and visitation orders and related orders of protection and temporary orders of protection.

Senate 5129-A/Assembly 8772-A. This measure would amend provisions of the Family Court Act and Domestic Relations Law, in relation to civil enforcement of orders of protection issued by Family and Supreme Court, to clarify that: (1) violation procedures prescribed by Article 8 of the Family Court Act will apply to all orders of protection and temporary orders of protection issued in family offense, child support, paternity, child custody,

visitation, divorce and other matrimonial proceedings, and (2) a willful violator of any such order may be placed on probation, ordered to pay restitution, precluded from visiting his or her children, or subject to supervision during visitation, required to surrender firearms, or subject to suspension or revocation of a firearms' license, or incarcerated for up to six months.

Senate 7024. This measure proposes the addition of two new provisions, section 657 of the Family Court Act and section 240(1-d) of the Domestic Relations Law, as well as amendment of existing section 817 of the Family Court Act, each to authorize Supreme Court justices and Family Court judges, in the course of pending custody cases, to direct child protective investigations and, if those investigations should determine that any allegations are "indicated," to direct the child protective agency to file a child protective petition with respect to those allegations.

Senate 7025. This measure would amend section 221-a of the Executive Law to create criminal and civil penalties for unauthorized disclosure of information from the Statewide computer system of orders of protections and warrants.

Senate 5233/Assembly 7741. This measure would amend sections of the CPLR, Domestic Relations Law, Family Court Act, Social Services Law and the Public Health Law to insure that the goals of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to promote more effective and expeditious establishment of paternity and determination of child support obligations, as well as to facilitate rigorous enforcement of those obligations, are fully met.

Senate 5508/Assembly 11502. This measure would amend the CPLR, Family Court Act and Social Services Law to clarify that Family Court hearing examiners, as well as Family Court Judges, would be authorized to determine motions to quash child support subpoenas issued by local Support Collection Units, issue subpoenas, *subpoenas duces tecum* and summonses, adjudicate contested paternity proceedings (with the exception of cases

involving issues of "equitable estoppel"), and conduct judicial reviews of administrative fair hearings regarding driver's license suspensions.

Senate 4410. This measure would amend sections 170.15 and 180.20 of the Criminal Procedure Law to authorize a local criminal court, on motion of the prosecutor or the defendant, to order removal of a domestic violence case from itself to any local criminal court of the same county that has been designated a domestic violence court by the Chief Administrative Judge. It would apply in each county of the State outside New York City that has a population of less than 1,000,000 persons.

Senate 3778. This measure would clarify that a family offense committed by a person younger than age 16 shall be treated as a juvenile delinquency or PINS proceeding under Article 3 or 7 of the Family Court Act, respectively, rather than as a family offense under Article 8 of such Act.

Senate 4750/Assembly 8560. This measure would amend the Family Court Act and Social Services Law to require local departments of social services and authorized child care agencies to gather information necessary for the formulation and effectuation of permanent plans promptly when a child enters care and on an ongoing basis thereafter.

Senate 5484/Assembly 9023. This measure would amend the Family Court Act, Social Services Law and the Education Law to insure that critical, pre-school, early intervention, special education, education and vocational services are provided to all children whose permanency planning is being monitored by Family Court; and (1) require child protective agencies to include information in permanency plans submitted pursuant to the Federal *Adoption and Safe Families Act* regarding steps taken and planned to insure prompt enrollment of foster children in pre-school and school programs and, in cases of younger children suspected of having a disability or developmental delay, their evaluation for "early intervention program" services; and (2) require submission of pre-release reports in cases involving persons in

need of supervision, setting forth steps for their prompt enrollment in school or vocational programs upon release from placement.

Assembly 8561. This measure would amend the Family Court Act and the Social Services Law to require that placement agencies report changes in a child's status — *e.g.*, movement from a foster or pre-adoptive home or program, relocation out of State with foster or pre-adoptive parents, or, with respect to a child not freed for adoption, the making of his or her trial or final discharge from foster care — within 30 days.

Senate 3429. This measure would amend the Family Court Act to require that dispositional and permanency hearing orders in juvenile delinquency and PINS proceedings involving foster care placements include: a description of the visitation plan between the juvenile and his or her parent or legally responsible adult; a service plan designed to fulfill the permanency goal for the juvenile; a direction that the parent or other legally responsible person be notified of, and be invited to be present at, any planning conferences convened by the placement agency with respect to the juvenile; and a warning that if the juvenile remains in placement for 15 out of 22 months, the agency may be required to file a petition to terminate parental rights.

Senate 3428. This measure would amend the Family Court Act and the Social Services Law to provide that the court, upon issuing an order terminating parental rights, clearly be permitted to commit a child's guardianship and custody to a relative, a foster parent or any other suitable person for purposes of instituting adoption proceedings.

Senate 5144/Assembly 7752. This measure would amend the Family Court Act and the Social Services Law to provide that, upon the request of indigent respondents, the Family Court, in relation to permanency hearing provisions in child protective and voluntary foster care proceedings, may assign counsel to provide representation at post-hearing case conferences.

Senate 3433/Assembly 5542-A. This measure would amend section 353.6(1)(a) of the Family Court Act to authorize compensation of unreimbursed medical expenses, if any, within the \$1,500 limit; and amend section 351.1(4) of the Act to clarify that victim impact statements, prepared by local probation departments as part of their pre-dispositional investigation and report, should contain information regarding the "amount of unreimbursed medical expenses, if any," so long as the dispositional hearing is not delayed by the effort to obtain such information.

Senate 3430-A/Assembly 9026-A. This measure would amend the Family Court Act and the Executive Law to establish a judicial allocation procedure for accepting admissions in PINS cases and delineation of procedures for violations of orders of suspended judgment and probation in such cases; and require that Family Court consider alternatives to detention, including conditional release, prior to imposition of pre-disposition detention, and that it order the "least restrictive available alternative" as its disposition.

Senate 5130. This measure would amend the Family Court Act and the Executive Law to authorize Family Court to mandate that a juvenile who is subject to an 18-month felony placement spend at least 12 months in a residential facility; and to authorize the Family Court to place any juvenile (or any adjudicated PINS), who otherwise would likely face placement into a juvenile correctional facility, into an intensive probation supervision program for all or part of the term of probation.

Assembly 11196-A. This measure would codify the holding in *Matter of Edwin L.* and provide needed amplification of the applicable procedures.

Assembly 7343. This measure would amend sections 237 and 238 of the Domestic Relations Law to require the court in a matrimonial case (or proceeding to enforce a judgment therein) involving parties with greatly unequal financial resources to order the monied party to pay counsel fees for the non-

monied party during the course of the case so as to enable her or him to carry on or defend it.

Senate 3540/Assembly 8532. This measure would amend section 5519(a) of the CPLR to exclude from its ambit judgments and orders in matrimonial actions that award maintenance and/or child support.

Measures Vetoed in the 2002 Legislative Session

Senate 2938/Assembly 10737. This measure would have amended section 2110 of the Surrogate's Court Procedure Act to permit reimbursement of certain expenses to attorneys in addition to compensation for legal services [Veto No. 8].

Senate 3434-A/Assembly 7347-A. This measure would have amended the Family Court Act and the Domestic Relations Law to reduce child support payments in two ways: (1) codify the decision of the New York State Court of Appeals in *Rose v. Moody*, 83 N.Y.2d 65 (1993), in which the Court held that the statutory provision setting an absolute \$25 minimum for child support payments was inconsistent with Federal law, which requires that support obligors be given the opportunity to rebut the presumption of a minimum payment amount; and (2) reduce child support obligations for non-custodial parents whose income is slightly above the self-support reserve, a Federal poverty measure [Veto No. 2].

Rules of the Chief Judge

The following Rules were amended or added by the Chief Judge during 2002:

Part 26 of the Rules of the Chief Judge, governing the statement of approval of compensation by the court, was amended, effective June 1, 2003, to permit the form of the statement to conform to the new Part 36 of the Rules of the Chief Judge.

A new Part 36 of the Rules of the Chief Judge, replacing the existing Part 36, was added, effective June 1, 2003 (with certain exceptions), to create a comprehensive process for the appointment of persons or entities serving as guardians, court evaluators, attorneys for an alleged incapacitated person, court examiners, supplemental needs trustees, receivers, referees, and certain professionals who perform services for guardians or receivers.

Section 40.2(b) of the Rules of the Chief Judge, governing the filing of financial disclosure statements, was amended, effective as of December 10, 2002, to make certain housekeeping changes.

Rules of the Chief Administrative Judge

The following Rules were amended or added by the Chief Administrative Judge during 2002:

Section 126.1 of the Rules of the Chief Administrator, governing the compensation of temporarily assigned city court judges, was amended, effective April 8, 2002, to clarify that the rule applied only to part-time judges.

Section 202.69 of the Uniform Civil Rules for the Supreme and County Courts was added, effective January 24, 2002, to create a formal procedure for the assignment to a single judge of pre-trial proceedings in cases involving mass torts.

Sections 206.6(f) and 206.21 of the Uniform Rules for the Court of Claims, governing papers filed with the Court of Claims, were amended, effective April 8, 2002, to make certain technical changes.

Sections 208.42(b) and 208.43(d) of the Uniform Rules for the New York City Civil Court, governing procedures for the Housing Part, were amended, effective April 8, 2002, to provide for the hearing of cases in the Red Hook Community Justice Center in Brooklyn.